

Title 12: CONSERVATION

Chapter 925: FISH AND WILDLIFE MANAGEMENT AND RESEARCH **HEADING: PL 2003, c. 414, Pt. A, §2 (new); Pt. D, §7 (aff); c. 614, §9 (aff)**

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Maine Revised Statutes

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Chapter 925: FISH AND WILDLIFE MANAGEMENT AND RESEARCH HEADING: PL 2003, c. 414, Pt. A, §2 (new); Pt. D, §7 (aff); c. 614, §9 (aff)

Subchapter 1: WILDLIFE MANAGEMENT AND RESEARCH HEADING:
PL 2003, C. 414, PT. A, §2 (NEW); PT. D, §7 (AFF); C. 614, §9 (AFF)

§12701. COMMISSIONER'S AUTHORITY OVER SANCTUARIES; MANAGEMENT AREAS AND ACCESS SITES

1. Public use. The commissioner may, pursuant to section 10104, adopt rules regulating hunting, fishing, trapping or other public use of any wildlife management area or wildlife sanctuary as designated in section 12706, subsection 1, except that a landowner may not be prohibited from operating any vehicle on land on which that person is domiciled. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §289 (AMD); 2003, c. 655, Pt. B, §422 (AFF) .]

2. Natural products. The commissioner may harvest and sell natural products of the land from land owned by the department and, if the land was purchased with federal aid funds, use the resulting revenue for land management, in accordance with federal aid guidelines.

[2007, c. 217, §1 (AMD) .]

3. Trapping. The commissioner may regulate the trapping of wild animals on wildlife sanctuaries or closed territories.

[2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

4. Fees. The commissioner may establish reasonable fees for admission to the Maine Wildlife Park and the Steve Powell Wildlife Management Area at Perkins Township, Sagadahoc County, known as Swan Island and Little Swan Island. Fees associated with the Steve Powell Wildlife Management Area must be deposited into a dedicated revenue account. In addition to those fees, the commissioner may accept and deposit into the dedicated revenue account money from any other source, public or private.

[2007, c. 539, Pt. KKKK, §1 (AMD) .]

5. Access sites to inland and coastal waters. The commissioner may, pursuant to section 10104, subsection 1, adopt rules regulating public use of department-owned or department-maintained sites that provide public access to inland or coastal waters. The commissioner may establish reasonable fees for use of these sites by members of the public as necessary to help defray the cost of routine maintenance and security. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §290 (AMD); 2003, c. 655, Pt. B, §422 (AFF) .]

SECTION HISTORY

2003, c. 414, §A2 (NEW). 2003, c. 414, §D7 (AFF). 2003, c. 614, §9 (AFF). 2003, c. 655, §§B289,290 (AMD). 2003, c. 655, §B422 (AFF). 2007, c. 217, §1 (AMD). 2007, c. 539, Pt. KKKK, §1 (AMD).

§12702. RULE VIOLATIONS; STATE-OWNED WILDLIFE MANAGEMENT AREAS

The following penalties apply to violations of rules regulating state-owned wildlife management areas. [2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §422 (AFF); 2003, c. 655, Pt. B, §291 (RPR).]

1. Civil violation. Notwithstanding section 10650, a person who violates a rule regulating state-owned wildlife management areas commits a civil violation for which a fine of not less than \$100 nor more than \$500 may be adjudged.

[2003, c. 655, Pt. B, §291 (NEW); 2003, c. 655, Pt. B, §422 (AFF) .]

2. Criminal violation. A person who violates a rule regulating state-owned wildlife management areas after having been adjudicated as having committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E crime.

[2003, c. 655, Pt. B, §291 (NEW); 2003, c. 655, Pt. B, §422 (AFF) .]

SECTION HISTORY

2003, c. 414, §A2 (NEW). 2003, c. 414, §D7 (AFF). 2003, c. 614, §9 (AFF). 2003, c. 655, §B422 (AFF). 2003, c. 655, §B291 (RPR).

§12703. RULE VIOLATIONS; STATE GAME FARMS

The following penalties apply to violations of rules regulating state game farms. [2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §422 (AFF); 2003, c. 655, Pt. B, §291 (RPR).]

1. Civil violation. Notwithstanding section 10650, a person who violates a rule regulating state game farms commits a civil violation for which a fine of not less than \$100 nor more than \$500 may be adjudged.

[2003, c. 655, Pt. B, §291 (NEW); 2003, c. 655, Pt. B, §422 (AFF) .]

2. Criminal violation. A person who violates a rule regulating state game farms after having been adjudicated as having committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E crime.

[2003, c. 655, Pt. B, §291 (NEW); 2003, c. 655, Pt. B, §422 (AFF) .]

SECTION HISTORY

2003, c. 414, §A2 (NEW). 2003, c. 414, §D7 (AFF). 2003, c. 614, §9 (AFF). 2003, c. 655, §B422 (AFF). 2003, c. 655, §B291 (RPR).

§12704. PERMIT TO HUNT, TRAP, POSSESS, BAND AND TRANSPORT WILD ANIMALS AND WILD BIRDS FOR SCIENTIFIC PURPOSES

The commissioner may issue a permit to any person, permitting that person to hunt, trap, possess, band and transport wild animals and wild birds for scientific purposes. [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

SECTION HISTORY

2003, c. 414, §A2 (NEW). 2003, c. 414, §D7 (AFF). 2003, c. 614, §9 (AFF).

§12705. RULE VIOLATIONS; SCIENTIFIC COLLECTION PERMITS

The following penalties apply to violations of rules regulating scientific collection permits. [2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §422 (AFF); 2003, c. 655, Pt. B, §292 (RPR).]

1. Civil violation. Notwithstanding section 10650, a person who violates a rule regulating scientific collection permits commits a civil violation for which a fine of not less than \$100 nor more than \$500 may be adjudged.

[2003, c. 655, Pt. B, §292 (NEW); 2003, c. 655, Pt. B, §422 (AFF).]

2. Criminal violation. A person who violates a rule regulating scientific collection permits after having been adjudicated as having committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E crime.

[2003, c. 655, Pt. B, §292 (NEW); 2003, c. 655, Pt. B, §422 (AFF).]

SECTION HISTORY

2003, c. 414, §A2 (NEW). 2003, c. 414, §D7 (AFF). 2003, c. 614, §9 (AFF). 2003, c. 655, §B422 (AFF). 2003, c. 655, §B292 (RPR).

§12706. WILDLIFE SANCTUARIES

1. Designation of wildlife sanctuaries. The following described territories are designated as wildlife sanctuaries and are subject to the commissioner's authority under section 12701:

A. Back Bay Sanctuary, Portland: Back Bay, so called, in Portland, in the County of Cumberland, above the Grand Trunk Railway bridge or within the area enclosed by a boundary line drawn as follows: Beginning at Fish Point at the easterly end of the Eastern Promenade in the City of Portland, thence extending about northeasterly to Pomeroy's Rock, thence about northeasterly to Mackworth or Half-way Rock southerly of Mackworth or Mackey Island, thence in a northerly direction to a point marked by a buoy 1,000 feet from the most easterly point of Mackworth Island, so called, thence in a northwesterly direction 700 yards more or less to the northernmost point of the large ridge on the north side of Mackworth Island, thence in a north northwesterly direction in a straight line about parallel to the Town of Falmouth shore to the point on the shoreline where the property known as the Berry Estate meets the property known as the Portland Country Club, thence northwesterly and southwesterly along the shore line of the Town of Falmouth including that of the salt water pond adjacent to the property known as the Portland Country Club to Mackworth or Mackey Point, thence about southwesterly along the easterly side of Martin Point bridge to the shore of East Deering (United States Marine Hospital) Portland, thence about southwesterly and southerly along said East Deering shore to the Grand Trunk bridge, thence along the easterly side of said Grand Trunk bridge to the shore of the Eastern Promenade, Portland, thence about southerly along said shore of the Eastern Promenade to the said Fish Point, the point of beginning; [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

B. Baxter State Park: The following described tracts of territory situated in the Counties of Penobscot and Piscataquis W. E. L. S. the same being in unorganized townships, to wit: That portion of Township 6, Range 8, Penobscot County in the southwest corner of said township bounded and described as follows: Beginning at the southwest corner of said township thence north along the west line of said township to First Grand or Matagamom Lake; thence easterly, southeasterly and southerly along the western shore of said lake to the point where the said western shore intersects the north line of the Dam Lot, so called, which was conveyed to the East Branch Dam Company by deed dated October 28, 1902 and recorded in Penobscot County Registry of Deeds in book 727, page 335 and reputed to be now owned by the East Branch Improvement Company; thence running west along the north line of said Dam Lot to the northwest corner thereof; thence running south along the west line of said Dam Lot to the southwest corner thereof; thence running east along the south line of said Dam Lot to the East Branch of the Penobscot River; thence running south by said East Branch to a point in the south line of said township where the said East Branch intersects the same; thence running west along the said south line of said township to the southwest corner thereof and the point of beginning; all of Township 3, Range 9, Piscataquis County now the property of the State of Maine: All of Township 4, Range 9, Piscataquis County: All of Township 5, Range 9, Piscataquis County: That portion of Township 6, Range 9, Piscataquis County lying south of Trout Brook and south of Wadleigh Brook and extending from the east line of said township across said township to the west line thereof: All of Township 3, Range 10, Piscataquis County: All of Township 4, Range 10, Piscataquis County: All of Township 5, Range 10, Piscataquis County, excepting therefrom an area of 20 acres in the southwesterly quarter thereof, formerly owned by and belonging to Charles A. Daisey, now owned by Arnold R. Daisey, which was excepted and reserved from a deed from Percival Proctor Baxter to the State of Maine, as set forth in chapter 91 of the private and special laws of 1943. The said within described 8 tracts or parcels of land contain 149,506 acres, more or less; [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

C. Beauchamp Sanctuary: The following described territory situated in Rockport and Camden, in the County of Knox: Beginning at the mouth of Goose River in Rockport; thence in a northerly direction along number 1 highway to the mouth of the Megunticook River in Camden; thence in a southerly direction along the coast around Metcalf Point and Beauchamp Point and thence in a northerly direction to the said Goose River; [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

D. Carver's Pond Waterfowl Sanctuary: The waters of Carver's Pond, so called, in the Town of Vinalhaven, County of Knox or 100 feet from the mean high water mark of said pond. Carver's Pond for the purpose of this sanctuary must be considered all the waters of said pond above the bridge on Main Street of the Town of Vinalhaven; [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

E. Drake's Island Game Sanctuary: All that part of Drake's Island, so called, in the Town of Wells, which is bounded as follows: Northerly by the game sanctuary established by chapter 31 of the public laws of 1927; easterly by the Atlantic Ocean; southerly by the Wells River; and westerly by said river and creek flowing under Dyke's Bridge, so called; [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

F. Dry Pond Sanctuary: On Dry Pond, also known as Crystal Lake, or from the shores of said pond, which pond is situated in the Town of Gray, in the County of Cumberland; [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

G. Fairfield Sanctuary: The following land owned by Good Will-Hinckley within the Town of Fairfield, in Somerset County: Beginning at the west shore of the Kennebec River, thence to Route 201, thence northerly to Kendall Annex Road, thence westerly to Craigin Brook, thence southerly along Craigin Brook to Martin Stream, thence westerly along the south bank of Martin Stream to the Central Maine Power transmission line, thence southerly along the east side of the Central Maine Power line, to discontinued Town Farm Road, to Green Road, across Green Road to Route 23, thence to Route 201, thence northerly 1/2 mile along Route 201 to the southerly line east of Route 201 of Good Will-Hinckley, thence easterly again to the Kennebec River, thence to the starting point.

Land not owned by Good Will-Hinckley within the described areas is not included within the Fairfield Sanctuary. Notwithstanding section 12701, a person may trap wild animals in the sanctuary in accordance with the provisions under chapter 917, and the 40-acre field south of Kendall Annex Road owned by Good Will-Hinckley is available for waterfowl hunting; [2005, c. 17, §1 (RPR).]

H. Glencove Sanctuary; Rockport: Glencove, so called, in Penobscot Bay, which cove is situated in the Town of Rockport, in the County of Knox, and which cove is bounded as follows, to wit: On the north, west and south by the main land, on the east by a line extending from Smith's Point to Ram Island and from Ram Island to the easterly point of Pine Hill in said Rockport; [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

I. Gray Game Sanctuary: The following described territory situated in the Town of Gray in the County of Cumberland: Beginning at Gray Corner following the Poland Spring Road to Dry Mills, thence following the North Raymond Road to the guidepost at intersection of East Raymond Road, thence following the East Raymond Road to Douglass Mill Road; thence following the Douglass Mill and Furbush Road to "Sand Brook," so called, on shore of Little Sebago Lake, thence following shore of Little Sebago Lake to Foster Shore, so called, at intersection of Foster and Ramsdell Road, so called, near camp of Dr. Cushing following last named road in easterly direction to intersection of Ramsdell Road near homestead of Edgar Foster, thence in a southerly direction following said Ramsdell road to intersection of road leading from Gray to West Gray, thence following last named road to Gray Corner to point of beginning; [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

J. Hog Island Game Sanctuary: Hog Island in the Town of Bremen, Lincoln County; [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

K. Jefferson and Whitefield Sanctuary: The following described territory situated in the Towns of Jefferson and Whitefield, in the County of Lincoln, which land is bounded as follows: On the north by the highway leading from Weary Pond to South Jefferson; on the east by Sterns Brook and by Little Dyer's Pond and the inlet stream and marsh of said pond and by the highway leading from South Jefferson to Alna; on the south by the Alna town line; on the west by the road leading from Alna to said Weary Pond, in the Town of Whitefield; [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

L. Kineo Point Sanctuary: Kineo Point, in Kineo, in the County of Piscataquis; [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

M. Limington, Hollis and Waterboro Sanctuary: The following described territory situated in the Towns of Limington, Hollis and Waterboro, in York County; beginning at a point where the Little Ossipee River joins the Saco River in the Town of Limington, thence westerly and southerly along said Little Ossipee River to the highway at Edgecomb's bridge, so called, in Waterboro, thence southerly and easterly along said highway to North Hollis, in the Town of Hollis, thence easterly and northerly along the road next west of Killick Brook to the road leading from Nason Mills to Bonney Eagle, thence northeasterly along said Bonney Eagle Road to the town line between Limington and Hollis, thence northerly along said town line to the Saco River, thence northerly along said Saco River to the point of beginning. All roads which serve to bound said Limington, Hollis and Waterboro game sanctuary must be a part of said sanctuary. For provisions relating specifically to Limington, Hollis and Waterboro Sanctuary, see section 12707, subsection 4; [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

N. Megunticook Lake and Vicinity Sanctuary: The waters of Megunticook Lake, formerly called Canaan Lake, and its tributary lakes, ponds and streams, and upon the land bordering on the same included within the following roads: Beginning at Hopkins' Corner, so called, in the Town of Camden; thence via the Turnpike Road, so called, to Lincolnville Center; thence to Wiley's Corner in Lincolnville, thence to the Mansfield schoolhouse in the Town of Camden; thence via the Fish Hatchery to place of beginning; all of said lake, its tributaries and shores being located in the Towns of Camden, Lincolnville and Hope,

in the Counties of Knox and Waldo. For provisions relating specifically to Megunticook Lake and Vicinity Sanctuary, see section 12707, subsection 2, paragraph H; [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

O. Merrymeeting Bay Game Sanctuary: Merrymeeting Bay in the Towns of Bowdoinham and Woolwich bounded as follows: Commencing at the high tension tower on Kelley's Point, so called, in Bowdoinham; thence westerly by a line approximately 100 feet above the high water mark designated by a series of posted signs over the field lands and by posted signs and a single strand of wire through the wooded area thus southerly 100 feet more or less to a red stake at the high water mark of Merrymeeting Bay; thence southerly approximately 400 yards to a red stake or marker on range between the first mentioned red stake and Butler's Head, so called, this stake or marker must also be on range between the iron pin on the southeasterly corner of the Inland Fisheries and Wildlife camp lot on the west shore of the Abagadasset River and the eastern support tower on the southern high tension power line in Woolwich; thence southeasterly across the flats and waters of Merrymeeting Bay approximately 1,900 yards to a red stake or marker located near high water mark on Elliott's Point, so called, on the Woolwich shore; thence northeasterly following high water mark approximately 1,250 yards to a red stake or marker under the overhead high tension power cables; thence westerly by a straight line to the point of beginning.

For provisions relating specifically to Merrymeeting Bay Game Sanctuary, see section 12707, subsection 3; [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

P. Monroe Island Game Sanctuary: Monroe Island, in the Town of Owl's Head, in the County of Knox; [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

Q. Moosehead Lake Game Sanctuary: The following described tracts or territory situated in the County of Piscataquis: Moose Island and Farm Island, in Moosehead Lake, and the territory bounded as follows: Beginning on the shore of Moosehead Lake at a point nearest to the easterly end of the state road leading westerly from Greenville Junction, so called, to the state fish hatchery on Moose Brook, thence westerly by said state road to said hatchery, thence northeasterly down said brook to the shore of Moosehead Lake, thence by the shore of said lake to the point of beginning; [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

R. Moosehorn Game Sanctuary: The right-of-way of the Maine Central Railroad from St. Croix Junction in Calais, southerly to the Charlotte town line; [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

S. Narragansett Game Sanctuary: The following described territory situated in the Town of Gorham, in the County of Cumberland: Bounded on the north by the right-of-way of the W. N. & P. division of the Boston & Maine railroad; on the east by the Black Brook Road or Scarboro Road, so called, in said Town of Gorham; on the south by the Stroudwater River; and on the west by South Street or South Gorham Road, so called, in said Town of Gorham, containing 3,600 acres, more or less. For provisions relating specifically to Narragansett Game Sanctuary, see section 12707, subsection 2, paragraph D; [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

T. Ocean Park Game and Bird Sanctuary: The following described territory situated in the Town of Old Orchard Beach, in the County of York: Beginning at a point on the easterly side of Fresh Water Cove Brook, so called, where the same intersects the Boston and Maine Railroad right-of-way; thence southerly along said brook to its mouth where it joins the Goose Fare Brook; thence southeasterly along said Goose Fare Brook to its mouth; thence easterly and parallel with the Atlantic Ocean and 50 feet in front of all bulkheads and houses fronting on the beach to the easterly side of Tunis Avenue; thence northwesterly along said avenue to the Boston and Maine Railroad right-of-way; thence by said Boston and Maine right-of-way to point of beginning; [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

U. Orrington Game Sanctuary: The following described territory beginning at a point on the state aid road No. 4, in Orrington, at the East Bucksport turn, extending in a southerly and southeasterly direction to the county line; on the road leading to Thurston Pond, to the Hancock County line; thence southwesterly along said county line to the land of Harry Byard; north along said line to the land of E. F.

Bowden; west on said line to the land of Frank Betts; northerly on line of E. F. Bowden to land of Fred Bowden; west on Fred Bowden's line to land of J. Betts; northerly on line of Fred Bowden and J. Betts to line of H. Byard; westerly on Byard's line and line of Mary Gray to land of P. W. Gray; northerly on Gray's line to land of J. Bowden heirs; northerly across said land to the line of E. F. Bowden and J. W. Bowden heirs; easterly on J. W. Bowden heirs' line to the first mentioned bound. The commissioner may add adjacent property to said game sanctuary upon application of said adjacent property owners; [2009, c. 269, §1 (REEN).]

V. Pittston Farm Sanctuary: Pittston Farm, so called, in Pittston Township, in the County of Somerset, being all the fields, pastures and cultivated lands of said farm; [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

W. Prout's Neck; Richmond's Island; Cape Elizabeth Sanctuary: The following described territory: On the 112 acres of land, more or less, comprising Prout's Neck, so called, in the Town of Scarborough, in the County of Cumberland; or on Richmond's Island, so called, in the Town of Cape Elizabeth, in said County of Cumberland; or on the tract of land comprising 1,600 acres, more or less, situated in said Town of Cape Elizabeth, and bounded as follows: Southeasterly and southerly by the low low watermark of the Atlantic Ocean, westerly by the low low watermark of the Spurwink River, northerly by the Spurwink Road, so called, leading from Spurwink Bridge to Bowery Beach, easterly by a certain private road or way which runs in a southerly direction from the aforesaid Spurwink Road to said Bowery Beach, being the road which runs in front of the dwelling house of one Charles L. Jordan and along the easterly boundary of land of said Charles L. Jordan, and along the westerly boundary of land of the Great Pond Club, but not including any portion of said Bowery Beach. For the purpose of this paragraph, Richmond's Island includes only that portion of land above the mean high watermark and the easterly portion, as defined by red painted markers, of the causeway between Richmond's Island and the mainland. For provisions relating specifically to Prout's Neck; Richmond's Island; Cape Elizabeth Sanctuary, see section 12707, subsection 2, paragraphs C and D; [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

X. Rangeley Game Sanctuary, in the County of Franklin: The following described tract or territory, situated in Rangeley, in the County of Franklin, to wit: So much of said Town of Rangeley as is bounded as follows: Southwesterly by Rangeley Lake; northwesterly and northeasterly by route No. 16; and southeasterly by the inlet to Rangeley Lake leading from Haley Pond, so called. The territory above described being so much of said Town of Rangeley, as lies between Rangeley Lake, the outlet of Rangeley Lake, route No. 16 and said inlet to Rangeley Lake from Haley Pond. This paragraph applies to that part of Hunter Cove, so called, lying northerly of Hunter Cove Bridge, so called; [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

Y. Rangeley Lake Sanctuary: Rangeley Lake bounded as follows: Beginning at Gilman's Point on the northerly shore of Rangeley Lake; thence southerly across said lake to the southwesterly corner of land of the Rangeley Lake Hotel Corporation; thence northerly, westerly and southerly around the shore of said Rangeley Lake back to the original starting point. Boats may pass through without incurring any penalty; [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

Z. [2013, c. 138, §1 (RP).]

AA. Readfield and Winthrop Sanctuary: The waters of Carleton Pond, so called, in the Towns of Readfield and Winthrop in the County of Kennebec, and the lands of the Augusta Water District adjacent to said pond and located in said Towns of Readfield and Winthrop, now owned or which are acquired by said district in furtherance of its chartered purposes. For provisions relating specifically to Readfield and Winthrop Sanctuary, see section 12707, subsection 2, paragraphs F and G and subsection 6; [2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §293 (AMD); 2003, c. 655, Pt. B, §422 (AFF).]

BB. Salmon Pond Sanctuary: That territory lying within a distance of 1/4 of a mile of Salmon Pond, which pond is situated in the Town of Guilford, in the County of Piscataquis, said pond being the source of water supply for the Dover-Foxcroft Water District, also all the lands now owned by said Dover-Foxcroft Water District in Lots 3 and 4, Range 7, which lie outside of the above 1/4 of a mile limit; [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

CC. Somerset Game Sanctuary: The following described tract or territory situated in Somerset County, the same being in unorganized territory, and taking in parts of Sapling Town, Misery Gore, Taunton and Raynham Township, and including the whole of Sandbar Tract, bounded and described as follows: The territory from the highway, being route 15, east to low watermark on Moosehead Lake between East Outlet and West Outlet, bounded as follows: Beginning at the junction of the low watermark of Moosehead Lake and the northerly side of the East Outlet of said lake; thence westerly by the northerly side of said East Outlet to the highway, being route 15; thence northerly by said highway to the southerly side of the West Outlet of said Moosehead Lake; thence easterly by the southerly side of said West Outlet to low watermark of Moosehead Lake; thence southerly by said low watermark of Moosehead Lake to the point of beginning; [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

DD. Standish Sanctuary: The following described territory in the Town of Standish in the County of Cumberland: Beginning at the point where the Maine Central railroad crosses the Pequaket Trail in Steep Falls; thence southerly and easterly by said Pequaket Trail, the Oak Hill Road, so-called, and the so-called back road from Steep Falls to Richville to its junction with the Rich Mill Road, so-called; thence by said Mill Road northeasterly to its junction with the road leading from Sebago Lake to East Sebago; thence by the last named road northerly to a point approximately 1 1/4 miles north of the Maine Central railroad crossing; thence by a certain wood road westerly to its junction with the Maine Central railroad; thence by said railroad northwesterly to the point of beginning. All roads and the Maine Central railroad right-of-way that serve to bound said Standish Game Sanctuary are a part of said sanctuary. For provisions relating specifically to Standish Sanctuary, see section 12707, subsection 5; [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

EE. Stanwood Wildlife Sanctuary: Beginning on Route 3 in Ellsworth at the northeast corner of the Stanwood Wildlife Sanctuary and the southeast corner of the Animal Medical Center; thence southerly 795 feet on the highway to an iron pipe, being the northeast corner of the Luchini lot; thence westerly 363 feet along Luchini's north line to an iron pipe; thence S 6° 40' W 716 feet to an iron pipe, abutting Luchini, Grossman's Lumber, and the Ellsworth Water Company water tower; thence N 81° 23' W 1699 feet, abutting the Jordan brothers' lot to a stake; thence N 6° 40' E 511 feet to a stake, abutting Khanbegian; thence N 79° 59' W 1432 feet to a stake, abutting Khanbegian; thence westerly 330 feet to a stake, abutting John Dorgan; thence S 79° 59' E 720 feet to an iron pipe, abutting John E. Partridge; then 10° 6' E 659 feet to an iron pipe, abutting John E. Partridge and Beatrice Jones; thence S 79° 59' E 1342 feet to an iron pipe, abutting Harry S. Jones, III; thence N 6° 08' E 326 feet to an iron pipe, abutting Harry S. Jones, III; thence N 80° 45' E 60 feet to an iron pipe, abutting the Maine Coast Mall; thence S 6° 08' W 87 feet to an iron pipe, abutting Dow Pontiac; thence N 69° 50' E 340 feet to an iron pipe, abutting Dow Pontiac; thence S 31° 04' E 371.75 feet to an iron pipe, abutting Ellsworth Agway and Branch Pond Marine; thence N 80° 42' E 84.5 feet to an iron pipe, abutting Ellsworth Car Wash; thence S 4° 45' W 219.8 feet to an iron pipe, abutting Animal Medical Center; thence N 69° 50' E 345 feet to an iron pipe, abutting Animal Medical Center and being the point of beginning, containing 100 acres more or less. The commissioner may add adjacent property to the game sanctuary upon application of the adjacent property owners; [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

FF. Thorncrag Bird Sanctuary: The following described territory: A certain parcel of land situated in Lewiston, and bounded as follows, to wit, beginning on the northeasterly side of the road leading from Barker Mills to the Thorne Corner Schoolhouse so-called, at the corner of the late Benjamin Thorne's land; thence running northeasterly about one hundred and seventy (170) rods to the corner of the late Phineas Wright and Dutton lot, so-called, thence northwesterly on said Wright lot about forty-six (46) rods to land owned by David Nevens; thence southwesterly on the line of said Neven's land to the above mentioned road, thence on the line of said road to the first mentioned bounds, containing forty-

five acres (45) more or less. A certain lot or parcel of land, situated in Lewiston, in said County of Androscoggin, and bounded and described as follows: Bounded southwesterly by a line commencing at a point in the southeasterly line of land of The Stanton Bird Sanctuary, six hundred eighty (680) feet northeasterly from the northeasterly line of said Montello Street, thence southeasterly and parallel with said Montello Street to a point six hundred eighty (680) feet northeasterly from said Montello Street to land formerly of George E. Ridley; bounded southeasterly by land formerly of said George E. Ridley; bounded northeasterly by land formerly of George H. Field; and bounded northwesterly by land of The Stanton Bird Club. A certain lot of land situated in said Lewiston, bounded and described as follows, to wit: Beginning at a stake and stones at the northeast corner of lot numbered thirteen (13); thence southwesterly on line of land now or formerly of Catherine Lynch and land formerly owned by George Bubier to the northeast corner of land formerly owned by Phineas Wright; thence northwesterly along said Wright land sixty-two (62) rods and five (5) links to stake in the corner of land now or formerly owned by William B. Kilbourne; thence north fifty degrees (50°) east on line of said Kilbourne land seventy (70) rods to stake standing on the southerly line of lot numbered twelve (12), formerly owned by James Lowell; thence southeasterly on said last mentioned line sixty-two (62) rods and five (5) links to point of commencement. Containing twenty-six (26) acres and one hundred fifty-seven (157) rods. A certain lot or parcel of land adjoining the lot above described and bounded and described as follows, to wit: Commencing on the westerly side of the road leading from Thorne's Corner by the residence now or formerly owned by Henry C. Field to Greene at the northeasterly corner of land owned by said Field, now or formerly; thence northwesterly on line of said Field land to land now or formerly of Frye and Dill; thence northeasterly on line of said Frye and Dill land and lot above described to land now or formerly owned by Catherine Lynch; thence southeasterly on line of said Lynch land to the aforesaid road; thence southwesterly by said road to point of commencement. Also another piece or parcel of land situated in said Lewiston, being a part of the Homestead Farm of Phineas Wright and bounded and described as follows: Beginning at the westerly corner of the Homestead Farm of Jarius Carville; thence southwesterly on said Carville land and land of Henry Field about fifty-seven (57) rods; thence at right angles northwesterly about sixty-nine and one-half (69 1/2) rods to the stone wall between the field and pasture on said Homestead Farm; thence by said wall northeasterly to the land of the late Dr. William Kilbourne; thence southeasterly on said Kilbourne land and land of Jarius Carville seventy-five (75) rods to point of beginning, containing twenty-seven (27) acres. A certain lot or parcel of land, situated in Lewiston in said County of Androscoggin and bounded and described as follows: Commencing at a point in the northeasterly line of Montello Street where the southeasterly line of land conveyed to the Stanton Bird Club by Alfred Williams Anthony by deed dated Jan. 18, 1922 and recorded in the Androscoggin Registry of Deeds, Book 315, page 447, intersects said street; thence northeasterly by southeasterly line of said land of said Stanton Bird Club, six hundred eighty (680) feet to land of said Stanton Bird Club; thence southeasterly and parallel with said Montello Street to a point six hundred eighty (680) feet northeasterly from said Montello Street and land formerly of George E. Ridley; thence southwesterly by said Ridley land six hundred eighty (680) feet to said Montello Street; thence northwesterly along the northeasterly side of said Montello Street to point of commencement. Also a certain other lot or parcel of land, situated in said Lewiston, bounded as follows: Westerly by the Highland Spring Road, northerly by the Thorne road, so-called, easterly by land of one A.D. Ames, and southerly by lands of Daniel Conley and A.W. Taylor, the same containing six and two-tenths (6.2) acres more or less. A certain lot or parcel of land situated northeasterly from the northeasterly end of East Avenue in said Lewiston, bounded and described as follows, to wit: Beginning at the corner of the Field, Wood, and Thorncrag lots, so-called, near the Miller Fireplace, thence running northwesterly one hundred fifty (150) feet about 9.03 rods, along the stone wall between the Thorncrag and Wood lots, so-called, to a stake and stones; thence at right angles northeasterly about 42.7 rods to a stake and stones on the line dividing the old Frye and Dill lot, now owned by the Stanton Bird Club, and the old Phineas Wright Homestead now owned by this Grantor; thence at nearly right angles along said line two hundred twenty (220) feet (13 1/3 rods) to the corner of the three lots commonly called the Frye and Dill, Henry Field and Phineas Wright, now owned by this Grantor, lots; thence 42.7 rods at right angles southwesterly along the Field line to the point of beginning; containing three (3) acres more or less. A certain lot or parcel of land situated in said Lewiston, bounded and described as follows: Beginning at an iron stake set in the ground in a stone wall on the northeasterly line of land of said Stanton Bird Club, said stake being one hundred fifty

(150) feet from the northwesterly corner of land of Raymond R. Field; thence northwesterly along the northeasterly line of land of said Stanton Bird Club one hundred twenty-five (125) feet to an iron stake set in the ground; thence at right angles northeasterly three hundred (300) feet to an iron stake set in the ground; thence at right angles northwesterly twenty-five (25) feet to an iron stake set in the ground; thence at right angles northeasterly three hundred seventeen (317) feet, more or less, to a stake set in the ground on the southeasterly line of land of the Stanton Bird Club one hundred fifty (150) feet to an iron stake set in the ground on the northwesterly line of land of said Stanton Bird Club; thence southwesterly along the northwesterly line of land of said Stanton Bird Club to the point of beginning; containing two (2) acres, more or less. A certain lot or parcel of land situated in Lewiston, bounded and described as follows: Beginning at a point on the southeasterly line of the original Stanton Bird Club Sanctuary, three hundred sixty-four (364) feet northeasterly from the northeasterly line of Montello Street; thence in a northeasterly direction by land now or formerly of the Stanton Bird Club, three hundred and sixty-eight (368) feet; thence in a southeasterly direction, parallel with the said northeasterly line of Montello Street, two hundred and forty (240) feet; thence in a southwesterly direction parallel with the first described line, three hundred sixty-eight (368) feet; thence in a northwesterly direction parallel with the said northeasterly line of Montello Street, two hundred forty (240) feet to the point of beginning, containing two (2) acres more or less. A certain lot or parcel of land situated in said Lewiston, it being the southwest end of Lot #13 bounded southeasterly on Lot #33 and southwesterly and northwesterly on a four (4) rod way as laid down on the plan of said township of said Lewiston. Containing fifty (50) acres, more or less, and being the homestead farm of the late Elizabeth S. Wood, deceased, and the premises being the same conveyed to her by the name of Elizabeth S. Haley by Dorcas G. Wright by deed dated April 12, 1866, and recorded in the Androscoggin County Registry of Deeds in Book 43, Page 114. A certain lot or parcel of land situated in said Lewiston, bounded and described as follows, viz: Commencing at a point on the westerly line of land now or formerly of H. Osmond Wood and Mabel V. Wood (formerly Dorcas Wright) where the northerly line of land of A. W. Anthony (formerly of Ephriam Wood) intersects said H. Osmond and Mabel V. Wood's west line; thence northerly nine hundred ninety-nine (999') feet on said H. Osmond and Mabel V. Wood's westerly line to land now or formerly of Charles W. Benson (formerly of O. K. Douglass); thence at right angles westerly one thousand two hundred twenty (1220') feet on said Benson's southerly line to a point in a rock wall; thence southeasterly on line of land now or formerly of George H. McGibbon and Mathilda G. McGibbon, one thousand two hundred thirty (1,230') feet to a point in the rock wall on the northerly line of said Anthony's land, one thousand nine hundred forty-six (1,946') feet from the point of commencement; thence easterly along the northerly line of land of said Anthony, one thousand nine hundred forty-six (1,946') feet to the point of beginning. Deacon Davis Bird Refuge: The following described territory: A certain parcel of land situated in the city of Lewiston, in the county of Androscoggin, and bounded as follows: The most northerly corner of land of the estate of George K. Davis, bounded and described as follows, to wit: On the northwest by land of the so-called Ham Farm; on the northeast by Pleasant Street; on the southwest by land of Joseph Breault; and on the southeast by a line extending northeasterly from the easterly corner of said Breault's land, and being a continuation of the southeast boundary of said Breault's land, containing 2 acres, more or less. Woodbury Sanctuary: The following described territory: A certain parcel of land situated in the towns of Litchfield and Monmouth in the county of Kennebec and bounded as follows: The westerly side of Whippoorwill Road, so called. Being all the land conveyed to the Stanton Bird Club by Louise S. Drew and Clara B. Dana by deed dated July 2, 1929 and recorded in Kennebec County Registry of Deeds in Book 669-Page 210; [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

GG. Tomhegan Game Sanctuary: The following territory in Township 1, Range 2, N. B. K. P., commonly known as Tomhegan Town, in the County of Somerset, described as follows: Beginning at a cedar post and stones, the post being marked PRESERVE C/W 1931, standing on the line which is the division line between the land owned by the Great Northern Paper Company and that owned by the trust estate of F. W. Rollins, standing on the westerly shore of Socatean Bay in Moosehead Lake; thence westerly on said division line 1 mile and 160 rods to a cedar post and stones, the post being marked PRESERVE C 1931; thence southerly at right angle to said division line 250 rods to a cedar post and stones, the post being marked PRESERVE C/W 1931 and standing on the northerly shore of Tomhegan

Bay in Moosehead Lake; thence easterly and northerly along the shore of Moosehead Lake around Socatean Point, so called, to the point of beginning and containing 700 acres, more or less; [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

HH. Wells Sanctuary: The following described tract or territory, situated in the Town of Wells, in the County of York: a certain tract of land, bounded and described as follows: On the east by the Atlantic Ocean; on the south by the Drake Island Road, so called; on the west by the U. S. Number 1 highway, so called; on the north by the town line of Kennebunk and Wells; [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

II. Wells and York Game Sanctuary: The following described territory situated in the Towns of Wells and York in York County; beginning at a point on highway No. 1 where the Josias River meets said highway No. 1 in the Town of Wells, thence southwesterly along said Josias River to the Maine Turnpike in the Town of York, thence northerly along said Maine Turnpike to the Agamenticus Road overpass; thence westerly across said overpass by Agamenticus Road to the North Village Road; thence northerly along said North Village Road to Ogunquit-North Berwick Road, thence easterly along said Ogunquit-North Berwick Road to highway No. 1 in the Town of Wells, thence southerly along highway No. 1 to the point of beginning in the Town of Wells; [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

JJ. Willow Water Game Sanctuary: The following named territory, on the following described properties, located in the Town of Perry:

(1) Beginning on the county road on the westerly line of the Reed Farm, so called, now or formerly owned by Mrs. J. Abiah McPhail, and thence running north 4° east, following said line, 32 rods to a marked tree; thence 75° west 20 rods to a stake; thence south 4° east 32 rods to the county road; thence easterly by the county road to the place of beginning. The same being the building lot formerly owned by the late John W. Trott and containing 4 acres, more or less;

(2) Any one other lot or parcel of land lying and being on the northerly side of the county road leading from the Eastport-Perry Bridge to Pembroke and bounded and described as follows, to wit: Beginning at the southwest corner of land formerly of the John W. Trott estate and thence running northerly on the west line of said Trott land to the northwest corner thereof; thence easterly on the north line of said Trott land to land now or formerly of Mrs. J. Abiah McPhail, formerly of John Reddington; thence north 1° east along the west line of said McPhail land to land now or formerly of the Charles J. Trott estate; thence westerly on the south line of said Trott land 62 rods; thence northerly on the westerly line of said Trott land 48 rods to the Morrison lot, so called; thence westerly on the said Morrison lot to land now or formerly of W. W. Brown; thence south 1/2° west 200 rods to the county road; thence easterly on said county road 77 rods to the place of beginning, containing in all 107 acres, more or less, being part of lots numbered 29 and 30 according to the plan of the Town of Perry;

(3) Any one other lot or parcel of land known as the pasture lot formerly the Wm. H. Brown Farm, bounded generally as follows, to wit: On the north by land formerly of S. Frost; on the east by land of Trott, on the south by the county road leading to Pembroke and on the west by land of M. Conley and land of others, names unknown, the above described lots being known as the Elijah Loring Farm in said Perry;

(4) A certain lot of land bounded on the north by land of the late John McCarty; on the east by Frost's Cove; on the south by lands formerly of Lucinda Frost and of Lewis D. Frost; and on the west by lands of the late John Morrison, William Anderson and the late John McCarty, containing 75 acres, more or less;

(5) One other lot or parcel of land bounded and described as follows, to wit: On the east by lots numbered 19 and 20; southerly by land of the late John Loring and the Russell lot, so called; westerly by lots numbered 10 and 11; and northerly by the William Anderson lot, and land formerly owned by the late Aaron Frost;

(6) One other certain lot or parcel of land bounded and described as follows, to wit: Bounded on the north by road leading from county road, to the field on the west; on the east by the county road leading from Eastport to Calais, on the south and the west by land of Lucinda Frost, afterwards conveyed to Jennie Frost; said lot being 10 rods on the county road and 8 rods back from the road; and

(7) One other certain lot or parcel of land bounded and described as follows, to wit: On the east by the county road leading from Eastport to Robbinston; on the south by land formerly owned by John A. Frost, on the west by land formerly of Sidney S. Frost and on the north by land formerly of Sidney S. Frost.

The owner of the properties included within the Willow Water Game Sanctuary shall enclose the same with a suitable fence and shall cause the erection of suitable signs on or near said sanctuary indicating that no hunting is permitted thereon. Near the center of said game sanctuary such owner is authorized to construct a 15-acre pond for the propagation of waterfowl, principally wood duck, teal and blacks. For provisions relating specifically to Willow Water Game Sanctuary, see section 12707, subsection 2, paragraph A; and [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

KK. York Game Sanctuary, in the County of Franklin: The following named territory; on the property of the following named persons, to wit: On land of J. Lewis York and on land of Yorks; said game sanctuary being in the northwest corner of Dallas Plantation, and bounded as follows, to wit: West by the east line of the Town of Rangeley; north by the south line of Lang Plantation; east by the west line of the public lot in Dallas Plantation; and south by land of Furbish, Goodspeed Company and land of the heirs of Henry Bliss, containing 539 acres, more or less. This game sanctuary is called the York Game Sanctuary.

For provisions relating specifically to York Game Sanctuary, in the County of Franklin, see section 12707, subsection 2, paragraph B. [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

[2013, c. 138, §1 (AMD) .]

2. Temporary wildlife sanctuaries. The following provisions apply to temporary wildlife sanctuaries.

A. The commissioner may, upon the written consent of landowners, create from any lands within the State, not to exceed 1,000 acres, a sanctuary or sanctuaries for the purpose of liberating tame deer. [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

B. The commissioner may release all or any part of lands from the restrictions of a sanctuary or sanctuaries, whenever the commissioner considers it expedient. [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

[2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

SECTION HISTORY

2003, c. 414, §A2 (NEW). 2003, c. 414, §D7 (AFF). 2003, c. 614, §9 (AFF). 2003, c. 655, §B293 (AMD). 2003, c. 655, §B422 (AFF). 2005, c. 17, §1 (AMD). 2009, c. 4, §1 (AMD). 2009, c. 269, §1 (AMD). 2013, c. 138, §1 (AMD).

§12707. UNLAWFUL ACTIVITY IN WILDLIFE SANCTUARY; GENERAL PROHIBITIONS AND EXCEPTIONS

Except to the extent permitted by the commissioner under section 12701, activities listed in this section are prohibited in a wildlife sanctuary. [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

1. Unlawful activity in wildlife sanctuary.

[2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §422 (AFF); 2003, c. 655, Pt. B, §294 (RP) .]

1-A. Unlawful activity in wildlife sanctuary. Except as provided in subsection 2, the following activities are prohibited.

A. A person may not trap or hunt any wild animal or wild bird at any time within a wildlife sanctuary as designated in section 12706.

(1) A person who violates this paragraph commits a civil violation for which a fine of not less than \$100 nor more than \$500 may be adjudged.

(2) A person who violates this paragraph after having been adjudicated as having committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E crime. [2003, c. 655, Pt. B, §294 (NEW); 2003, c. 655, Pt. B, §422 (AFF) .]

B. A person may not possess any wild animal or wild bird taken in violation of paragraph A.

(1) A person who violates this paragraph commits a civil violation for which a fine of not less than \$100 nor more than \$500 may be adjudged.

(2) A person who violates this paragraph after having been adjudicated as having committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E crime. [2003, c. 655, Pt. B, §294 (NEW); 2003, c. 655, Pt. B, §422 (AFF) .]

[2003, c. 655, Pt. B, §294 (NEW); 2003, c. 655, Pt. B, §422 (AFF) .]

2. Exceptions. The following exceptions apply to the prohibitions in subsection 1-A.

A. Subsection 1-A does not apply to crows and skunks in the Willow Water Game Sanctuary. [2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §294 (AMD); 2003, c. 655, Pt. B, §422 (AFF) .]

B. A person residing within the limits of the York Game Sanctuary in the County of Franklin may kill any wild bird, except grouse, or any wild animal, except beaver, when found destroying that person's property. [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

C. A person residing within the limits of Prout's Neck, Richmond's Island and Cape Elizabeth Sanctuary may kill any wild bird, except ruffed grouse or Hungarian partridge, or any wild animal, when found destroying that person's property. [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

D. A person may trap any wild animal except moose and deer within Fairfield Sanctuary, Narragansett Game Sanctuary and Prout's Neck, Richmond's Island and Cape Elizabeth Sanctuary in accordance with the general laws of the State. [2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §294 (AMD); 2003, c. 655, Pt. B, §422 (AFF) .]

E. [2013, c. 138, §2 (RP) .]

F. The Augusta Water District may use Carleton Pond in the Readfield and Winthrop Sanctuary as it determines necessary. [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

G. Within the Readfield and Winthrop Sanctuary, subsection 1-A applies only to fenced lands. [2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §294 (AMD); 2003, c. 655, Pt. B, §422 (AFF) .]

H. The use of firearms on Megunticook Lake and Vicinity Sanctuary is prohibited only from the first day of April of each year to the 30th day of September following. [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

[2013, c. 138, §2 (AMD) .]

3. Using motorboat within Merrymeeting Bay Game Sanctuary. A person may not use a motorboat within Merrymeeting Bay Game Sanctuary, except that motorboats may be used between the Woolwich shore on the east and a line on the west designated by a series of red markers adjacent to the edge of the grassy marsh area from Kelly's Point to the southern boundary of the Merrymeeting Bay Game Sanctuary.

A. A person who violates this subsection commits a civil violation for which a fine of not less than \$100 nor more than \$500 may be adjudged. [2003, c. 655, Pt. B, §294 (NEW); 2003, c. 655, Pt. B, §422 (AFF).]

B. A person who violates this subsection after having been adjudicated as having committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E crime. [2003, c. 655, Pt. B, §294 (NEW); 2003, c. 655, Pt. B, §422 (AFF).]

[2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §294 (AMD); 2003, c. 655, Pt. B, §422 (AFF) .]

4. Carrying loaded firearm on bounds of Limington, Hollis and Waterboro Sanctuary. A person may not carry a loaded firearm on any of the roads bounding the Limington, Hollis and Waterboro Sanctuary.

A. A person who violates this subsection commits a civil violation for which a fine of not less than \$100 nor more than \$500 may be adjudged. [2003, c. 655, Pt. B, §294 (NEW); 2003, c. 655, Pt. B, §422 (AFF).]

B. A person who violates this subsection after having been adjudicated as having committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E crime. [2003, c. 655, Pt. B, §294 (NEW); 2003, c. 655, Pt. B, §422 (AFF).]

[2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §294 (AMD); 2003, c. 655, Pt. B, §422 (AFF) .]

5. Carrying loaded firearm on bounds of Standish Sanctuary. A person may not carry a loaded firearm on any road or on the Maine Central Railroad right-of-way that bounds the Standish Game Sanctuary.

A. A person who violates this subsection commits a civil violation for which a fine of not less than \$100 nor more than \$500 may be adjudged. [2003, c. 655, Pt. B, §294 (NEW); 2003, c. 655, Pt. B, §422 (AFF).]

B. A person who violates this subsection after having been adjudicated as having committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E crime. [2003, c. 655, Pt. B, §294 (NEW); 2003, c. 655, Pt. B, §422 (AFF).]

[2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §294 (AMD); 2003, c. 655, Pt. B, §422 (AFF) .]

6. Fishing in Carleton Pond. A person may not fish in Carleton Pond in the Readfield and Winthrop Sanctuary.

A. A person who violates this subsection commits a civil violation for which a fine of not less than \$100 nor more than \$500 may be adjudged. [2003, c. 655, Pt. B, §294 (NEW); 2003, c. 655, Pt. B, §422 (AFF).]

B. A person who violates this subsection after having been adjudicated as having committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E crime. [2003, c. 655, Pt. B, §294 (NEW); 2003, c. 655, Pt. B, §422 (AFF).]

[2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §294 (AMD); 2003, c. 655, Pt. B, §422 (AFF) .]

SECTION HISTORY

2003, c. 414, §A2 (NEW). 2003, c. 414, §D7 (AFF). 2003, c. 614, §9 (AFF). 2003, c. 655, §B294 (AMD). 2003, c. 655, §B422 (AFF). 2013, c. 138, §2 (AMD).

§12708. WILDLIFE MANAGEMENT AREAS AND PUBLIC ACCESS SITES

1. Designation and classification of wildlife management areas. The following areas are classified as wildlife management areas.

A. The following described territories are classified as wildlife management areas to be managed by the commissioner in accordance with the principles of wildlife management, as defined in section 10001, subsection 73, and subject to the commissioner's authority under section 12701:

(1) Bartlett's Island in Hancock County;

(2) Colby College Area: The Mayflower Hill Campus of Colby College comprising approximately 640 acres of land. It is located west of the center of Waterville bounded in general as follows:

From a stone marker on the west bank of Messalonskee Stream, said marker located across the stream from a point approximately 400 feet north of Riverview Avenue. Runs north along bank of Messalonskee Stream to a point approximately 2,000 feet north of Cedar Bridge (North Street), thence in a northeasterly direction to a cement marker on the Second Rangeway at a point approximately 900 feet northeast of intersection with Rice Rips Road, thence in a southwesterly direction to Rice Rips Road, thence east approximately 300 feet, thence southwesterly again approximately parallel to and west of the Second Rangeway for approximately 1,800 feet to a cement marker, thence easterly to the Second Rangeway, thence in a southerly direction on east side of Second Rangeway for approximately 1,900 feet to a cement marker and college sign; thence southeast approximately 5,400 feet to Mt. Merici property line post and cement marker; thence in easterly direction to and across Mayflower Hill Drive in offset manner (east offset marked with stone or cement marker post) to and across Maine Central railroad to the point of beginning on west bank of Messalonskee Stream;

(3) Deer Isle and Stonington: The Towns of Deer Isle and Stonington, Hancock County;

(6) Lowell E. Barnes Wildlife Management Area: Certain lots or parcels of land situated in Hiram, County of Oxford, State of Maine, bounded and described as follows:

(a) A parcel of land containing 700 acres more or less bounded northerly by land now or formerly of Lusanna Hubbard, Lemuel Cotton and M.L. Wardsworth; easterly by land now or formerly of James Edgecomb; southerly by land now or formerly owned or occupied by Llewellyn A. Wardsworth, Asbury Huntress and Orison Adams; and westerly by land now or formerly of James Ayer, Harrison Sanburn, James Ayer again, the George F. Brooks place, so called, being the lot next below described and land now or formerly of Fred Small, Seth Spring and Freeman Flye;

(b) A parcel of land containing 25 acres, more or less, situated westerly of the above described lot and known as the George F. Brooks place; and

(c) A parcel of land containing 70 acres, more or less, situated adjacent to the first parcel above described and bounded north, east and west by said first above described parcel and southerly by land now or formerly of James Ayer and Elmer Hodgdon. Said parcel is known as the Dennis Stanley place;

(7) Marsh Island: Marsh Island in Penobscot County; and

(8) Oak Grove: The campus and land of Oak Grove School, in the Town of Vassalboro, County of Kennebec, situated on the east side of Route No. 100; and all the land of said school situated on the west side of Route No. 100. Sebago Lake Basin Wildlife Management Area: All that portion of Sebago Lake commonly known as Sebago Lake Basin lying below the high water mark in the Towns of Standish and Windham. [2005, c. 477, §21 (AMD).]

B. The following areas are classified as state-owned wildlife management areas, or "WMAs":

- (1) Blanchard/AuClair WMA (Roach River Corridor) - T1 R14 WELS - Piscataquis County;
- (2) Major Gregory Sanborn WMA - Brownfield, Denmark, Fryeburg - Oxford County;
- (3) George Bucknam WMA (Belgrade Stream) - Mt. Vernon - Kennebec County;
- (4) Caesar Pond WMA - Bowdoin - Sagadahoc County;
- (5) Chesterville WMA - Chesterville - Franklin County;
- (6) Coast of Maine WMA - all state-owned coastal islands that are owned or managed by the Department of Inland Fisheries and Wildlife;
- (7) Dickwood Lake WMA - Eagle Lake - Aroostook County;
- (8) Francis D. Dunn WMA (Sawtelle Deadwater) - T6 R7 WELS - Penobscot County;
- (9) Fahi Pond WMA - Embden - Somerset County;
- (10) Lyle Frost WMA (formerly Scammon) - Eastbrook, Franklin - Hancock County;
- (11) Alonzo H. Garcelon WMA (Mud Mill Flowage) - Augusta, Windsor, Vassalboro, China - Kennebec County;
- (12) Great Works WMA - Edmunds Township - Washington County;
- (13) Jamies Pond WMA - Manchester, Farmingdale, Hallowell - Kennebec County;
- (14) Jonesboro WMA - Jonesboro - Washington County;
- (15) Earle R. Kelley WMA (Dresden Bog) - Alna, Dresden - Lincoln County;
- (16) Kennebunk Plains WMA - Kennebunk - York County;
- (17) Bud Leavitt WMA (Bull Hill) - Atkinson, Charleston, Dover-Foxcroft, Garland - Penobscot County and Piscataquis County;
- (18) Gene Letourneau WMA (Frye Mountain) - Montville, Knox, Morrill - Waldo County;
- (19) Long Lake WMA - St. Agatha - Aroostook County (all of Long Lake within the Town of St. Agatha);
- (20) Madawaska WMA - Palmyra - Somerset County;
- (20-A) Maine Youth Conservation WMA - T32MD - Hancock County;
- (21) Mainstream WMA - Cambridge, Ripley - Somerset County;
- (22) Lt. Gordon Manuel WMA - Hodgdon, Cary Plantation, Linneus - Aroostook County;
- (23) Maynard F. Marsh WMA (Killick Pond) - Hollis, Limington - York County;
- (24) Mercer Bog WMA - Mercer - Somerset County;
- (25) Merrymeeting Bay WMA - Dresden, Bowdoinham, Woolwich, Bath, Topsham - Lincoln County and Sagadahoc County;

- (26) Morgan Meadow WMA - Raymond - Cumberland County;
- (27) Mt. Agamenticus WMA - York, South Berwick - York County;
- (28) Muddy River WMA - Topsham - Sagadahoc County;
- (29) Narraguagus Junction WMA - Cherryfield - Washington County;
- (30) Old Pond Farm WMA - Maxfield, Howland - Penobscot County;
- (31) Orange River WMA - Whiting - Washington County;
- (32) Peaks Island WMA - Portland - Cumberland County;
- (33) Pennamaquam WMA - Pembroke, Charlotte - Washington County;
- (34) Steve Powell WMA - Perkins Township - Sagadahoc County (being the islands in the Kennebec River near Richmond known as Swan Island and Little Swan Island, formerly known as Alexander Islands);
- (35) David Priest WMA (Dwinal Pond) - Lee, Winn - Penobscot County;
- (36) James Dorso Ruffingham Meadow WMA - Montville, Searsmont - Waldo County;
- (37) St. Albans WMA - St. Albans - Somerset County;
- (38) Sandy Point WMA - Stockton Springs - Waldo County;
- (39) Scarborough WMA - Scarborough, Old Orchard Beach, Saco - Cumberland County and York County;
- (40) Steep Falls WMA - Standish, Baldwin - Cumberland County;
- (41) Tyler Pond WMA - Manchester, Augusta - Kennebec County;
- (42) Vernon S. Walker WMA - Newfield, Shapleigh - York County;
- (43) R. Waldo Tyler Weskeag Marsh WMA - South Thomaston, Thomaston, Rockland, Owl's Head, Friendship - Knox County;
- (43-A) Kennebec River Estuary WMA - Arrowsic, Bath, Georgetown, Phippsburg, West Bath, Woolwich - Sagadahoc County;
- (43-B) Tolla Wolla WMA - Livermore - Androscoggin County;
- (43-C) Green Point WMA - Dresden - Lincoln County;
- (43-D) Hurds Pond WMA - Swanville - Waldo County;
- (43-E) Sherman Lake WMA - Newcastle, Damariscotta - Lincoln County;
- (43-F) Ducktrap River WMA - Belmont, Lincolnville - Waldo County;
- (45) Stump Pond WMA - New Vineyard - Franklin County;
- (46) Bog Brook WMA - Beddington, Deblois - Washington County;
- (47) Cobscook Bay WMA - Lubec, Pembroke, Perry, Trescott Township - Washington County;
- (48) Mattawamkeag River System WMA - Drew Plantation, Kingman Township, Prentiss Township, Webster Township - Penobscot County;
- (49) Booming Ground WMA - Forest City - Washington County;
- (50) Butler Island WMA - Ashland - Aroostook County;
- (51) Pollard Flat WMA - Masardis - Aroostook County;
- (52) Caribou Bog WMA - Old Town, Orono - Penobscot County;
- (53) Delano WMA - Monson - Piscataquis County;
- (54) Egypt Bay WMA - Hancock - Hancock County;

- (55) Spring Brook WMA - Hancock - Hancock County;
- (56) Strong WMA - Strong - Franklin County;
- (57) Plymouth Bog WMA - Plymouth - Penobscot County; and
- (58) Such other areas as the commissioner designates, by rules adopted in accordance with section 12701, as state-owned wildlife management areas. [2013, c. 408, §21 (AMD) .]

[2013, c. 408, §21 (AMD) .]

2. The Public Boat Launch Access Program. The Public Boat Launch Access Program, referred to in this subsection as the "program," is established in the department. The purpose of the program is to provide anglers, boaters and other persons fair and equitable public access to public waters that offer recreational fishing opportunities by acquiring lands adjacent to those waters and providing appropriate opportunities to access those waters. The commissioner may establish program priorities based on fishery management or other resource management objectives and may use for these purposes any funds received through federal programs intended to aid in the restoration of sport fishing and other revenues available for providing access to public waters.

[2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

SECTION HISTORY

2003, c. 414, §A2 (NEW). 2003, c. 414, §D7 (AFF). 2003, c. 587, §1 (AMD). 2003, c. 587, §2 (AFF). 2003, c. 614, §9 (AFF). 2003, c. 655, §B295 (AMD). 2003, c. 655, §§B422,C4,6 (AFF). 2005, c. 477, §21 (AMD). 2007, c. 463, §7 (AMD). 2011, c. 253, §34 (AMD). 2013, c. 408, §21 (AMD).

Subchapter 2: FISH MANAGEMENT AND RESEARCH HEADING:
PL 2003, C. 414, PT. A, §2 (NEW); PT. D, §7 (AFF); C. 614, §9 (AFF)

§12751. COMMISSIONER'S AUTHORITY RELATING TO CULTURE AND RESEARCH

1. Setting apart waters. The commissioner may by rule, pursuant to section 10104, subsection 1, set apart, for a term not to exceed 10 years, any inland water for use by the State in conducting work on fish culture and scientific research relative to fish.

In the waters so set apart, the commissioner and persons acting under the commissioner's authority in their respective fish culture and scientific work may take fish at any time or in any manner and erect and maintain any fixtures necessary for these purposes. In no instance may the commissioner permit the taking of fish by explosive, poisonous or stupefying substances, except for the use of registered fish toxicants for reclamation purposes.

[2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §296 (AMD); 2003, c. 655, Pt. B, §422 (AFF) .]

2. Taking of certain fish.

[2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §422 (AFF); 2003, c. 655, Pt. B, §296 (RP) .]

SECTION HISTORY

2003, c. 414, §A2 (NEW). 2003, c. 414, §D7 (AFF). 2003, c. 614, §9 (AFF). 2003, c. 655, §B296 (AMD). 2003, c. 655, §B422 (AFF).

§12752. UNITED STATES FISH AND WILDLIFE SERVICE

The United States Fish and Wildlife Service and its duly authorized agents may conduct fish culture operations and scientific investigations in the waters of this State in such manner and at such times as the service and its agents consider necessary and proper. [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

SECTION HISTORY

2003, c. 414, §A2 (NEW). 2003, c. 414, §D7 (AFF). 2003, c. 614, §9 (AFF).

§12753. SCREENS

1. Commissioner's authority. The commissioner may:

A. Authorize, alter and remove the screening of any inland waters; and [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

B. Prohibit fishing within 500 yards of any screen installed by authority of the commissioner or the Legislature. [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

[2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

2. Tampering with screen. A person may not take up, destroy or injure any screen installed pursuant to this section, unless the person is duly authorized by the commissioner.

[2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §297 (AMD); 2003, c. 655, Pt. B, §422 (AFF) .]

3. Penalty. The following penalties apply to violations of subsection 2.

A. A person who violates subsection 2 commits a civil violation for which a fine of not less than \$100 nor more than \$500 may be adjudged. [2003, c. 655, Pt. B, §298 (NEW); 2003, c. 655, Pt. B, §422 (AFF).]

B. A person who violates subsection 2 after having been adjudicated as having committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E crime. [2003, c. 655, Pt. B, §298 (NEW); 2003, c. 655, Pt. B, §422 (AFF).]

[2003, c. 655, Pt. B, §298 (NEW); 2003, c. 655, Pt. B, §422 (AFF) .]

SECTION HISTORY

2003, c. 414, §A2 (NEW). 2003, c. 414, §D7 (AFF). 2003, c. 614, §9 (AFF). 2003, c. 655, §§B297,298 (AMD). 2003, c. 655, §B422 (AFF).

§12754. FISH SPAWNING AREAS

1. Commissioner's authority. The commissioner may by rule, pursuant to section 10104, subsection 1, designate any inland waters of the State as fish spawning areas.

[2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

2. Hearing. The commissioner shall institute a public hearing, in conformity with the Maine Administrative Procedure Act, if so requested by any state agency.

[2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

SECTION HISTORY

2003, c. 414, §A2 (NEW). 2003, c. 414, §D7 (AFF). 2003, c. 614, §9 (AFF).

§12755. TAMPERING WITH DEPARTMENT DAM

1. Prohibition. A person without authority from the commissioner may not:

A. Tamper with a department dam; [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

B. Open or close gates or sluiceways of a department dam; [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

C. Add or remove flashboards of a department dam; or [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

D. Otherwise damage or destroy a department dam. [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

For purposes of this subsection, "department dam" means a dam owned or operated by the department, including dams in a fish hatchery or rearing station.

[2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

2. Penalty. The following penalties apply to violations of this section.

A. A person who violates this section commits a civil violation for which a fine of not less than \$100 nor more than \$500 may be adjudged. [2003, c. 655, Pt. B, §299 (NEW); 2003, c. 655, Pt. B, §422 (AFF).]

B. A person who violates this section after having been adjudicated as having committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E crime. [2003, c. 655, Pt. B, §299 (NEW); 2003, c. 655, Pt. B, §422 (AFF).]

[2003, c. 655, Pt. B, §299 (NEW); 2003, c. 655, Pt. B, §422 (AFF) .]

SECTION HISTORY

2003, c. 414, §A2 (NEW). 2003, c. 414, §D7 (AFF). 2003, c. 614, §9 (AFF). 2003, c. 655, §B299 (AMD). 2003, c. 655, §B422 (AFF).

§12756. TAMPERING WITH FISHWAY

1. Prohibition. A person without authority from the commissioner may not:

A. Tamper with a fishway; [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

B. Close a fishway to fish migration; [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

C. Introduce foreign objects into a fishway; or [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

D. Otherwise damage or destroy a fishway. [2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §300 (AMD); 2003, c. 655, Pt. B, §422 (AFF).]

[2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §300 (AMD); 2003, c. 655, Pt. B, §422 (AFF).]

2. Penalty. The following penalties apply to violations of this section.

A. A person who violates this section commits a civil violation for which a fine of not less than \$100 nor more than \$500 may be adjudged. [2003, c. 655, Pt. B, §301 (NEW); 2003, c. 655, Pt. B, §422 (AFF).]

B. A person who violates this section after having been adjudicated as having committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E crime. [2003, c. 655, Pt. B, §301 (NEW); 2003, c. 655, Pt. B, §422 (AFF).]

[2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §422 (AFF); 2003, c. 655, Pt. B, §301 (RPR).]

SECTION HISTORY

2003, c. 414, §A2 (NEW). 2003, c. 414, §D7 (AFF). 2003, c. 614, §9 (AFF). 2003, c. 655, §§B300,301 (AMD). 2003, c. 655, §B422 (AFF).

§12757. MANAGEMENT OF BROOK TROUT AND LANDLOCKED SALMON

Notwithstanding any other provision of this Part, any rule that includes a proposal to establish or amend the time, place or manner in which a person may fish for brook trout or landlocked salmon on inland waters is a routine technical rule as defined in Title 5, chapter 375, subchapter 2-A. The department shall provide the information in subsections 1 to 3 to any person upon request and at all hearings or meetings that relate to the time, place or manner in which a person may fish for brook trout or landlocked salmon on inland waters: [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

1. Information. Information and interpretation leading to rule proposals including alternative proposals that staff have considered but not proposed;

[2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

2. Assessment of biological potential. An assessment of the biological potential of the waters affected and management goals for those waters, including the best scientific judgment of the probable outcome and the probability of success of the plan relating to the management of brook trout and landlocked salmon; and

[2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

3. Assessment of ability to evaluate success. A realistic assessment of the ability of fisheries staff to evaluate success of the management through future surveys.

[2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

SECTION HISTORY

2003, c. 414, §A2 (NEW). 2003, c. 414, §D7 (AFF). 2003, c. 614, §9 (AFF).

§12758. FISH STOCKING

(REPEALED)

SECTION HISTORY

2003, c. 414, §A2 (NEW). 2003, c. 414, §D7 (AFF). 2003, c. 614, §9 (AFF). 2003, c. 655, §B422 (AFF). 2003, c. 655, §B302 (RP).

§12758-A. FISH STOCKING; PUBLIC NOTIFICATION

When the Bureau of Resource Management plans to stock an inland water for the first time or to stock a new fish species or permanently stop stocking a fish species that is currently being stocked in an inland water, the department shall notify the public as provided in this section and allow for public comments on the stocking plan prior to implementing that plan. The department shall include on its publicly accessible website, in a manner that is easily identifiable and accessible by the public, notice of fish stocking plans identified under this section and allow public comment within a reasonable period of time. The department shall also provide notice by e-mail to organizations and individuals who have requested such notice. The department shall provide notification as provided in this section at the same time the stocking plan becomes a Bureau of Resource Management proposal. This section does not apply to a private pond or a fishing program for children. [2009, c. 216, §1 (NEW).]

SECTION HISTORY

2009, c. 216, §1 (NEW).

§12759. STOCKING ALEWIVES

1. Prohibition. A person may not stock alewives in Hogan Pond or Whitney Pond in the Town of Oxford or any waters that drain into or out of those ponds.

[2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

2. Penalty. The following penalties apply to violations of this section.

A. A person who violates this section commits a civil violation for which a fine of not less than \$100 nor more than \$500 may be adjudged. [2003, c. 655, Pt. B, §303 (NEW); 2003, c. 655, Pt. B, §422 (AFF).]

B. A person who violates this section after having been adjudicated as having committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E crime. [2003, c. 655, Pt. B, §303 (NEW); 2003, c. 655, Pt. B, §422 (AFF).]

[2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §422 (AFF); 2003, c. 655, Pt. B, §303 (RPR) .]

SECTION HISTORY

2003, c. 414, §A2 (NEW). 2003, c. 414, §D7 (AFF). 2003, c. 614, §9 (AFF). 2003, c. 655, §B303 (AMD). 2003, c. 655, §B422 (AFF).

§12760. FISHWAYS IN DAMS AND OTHER ARTIFICIAL OBSTRUCTIONS

1. Commissioners' authority. In order to conserve, develop or restore anadromous or migratory fish resources, the commissioner and the Commissioner of Marine Resources jointly may require a fishway to be erected, maintained, repaired or altered by the owners, lessors or other persons in control of any dam or other artificial obstruction within inland waters frequented by alewives, shad, salmon, sturgeon or other anadromous or migratory fish species.

The commissioners may not require or authorize a fishway or fish bypass structure at a dam on the outlet of Sebec Lake in the Town of Sebec or at a dam on the Sebec River in the Town of Milo or at a dam on the outlet of Schoodic Lake in Lake View Plantation or at a dam on the outlet of Seboeis Lake in Township 4, Range 9 NWP that would allow the upstream passage of an invasive fish species known to be present

downstream in the Piscataquis River or Penobscot River drainage. For the purposes of this section, “invasive fish species” means those invasive fish species identified in the action plan for managing invasive aquatic species developed pursuant to Title 38, section 1872.

[2011, c. 612, §1 (AMD) .]

2. Examination of dams. The commissioner and the Commissioner of Marine Resources shall periodically examine all dams and other artificial obstructions to fish passage within the inland waters in order to determine whether fishways are necessary, sufficient or suitable for the passage of anadromous or migratory fish.

[2011, c. 612, §1 (AMD) .]

3. Monitoring program. The commissioner and the Commissioner of Marine Resources shall establish a program to ensure fishways are functioning properly and remain sufficient or suitable for the passage of anadromous or migratory fish. The commissioners have sole authority to take corrective action at fishways as prescribed under this section.

[2011, c. 612, §1 (AMD) .]

4. Initiation of fishway proceedings. The commissioner and the Commissioner of Marine Resources shall initiate proceedings to consider construction, repair or alteration of fishways in existing dams or other artificial obstructions whenever the commissioners determine that one or more of the following conditions may exist:

- A. Fish passage at the dam or obstruction in issue, whether alone or in conjunction with fish passage at other upriver barriers, will improve access to sufficient and suitable habitat anywhere in the watershed to support a substantial commercial or recreational fishery for one or more species of anadromous or migratory fish; or [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]
- B. Fish passage at the dam or obstruction in issue is necessary to protect or enhance rare, threatened or endangered fish species. [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

[2011, c. 612, §1 (AMD) .]

5. Adjudicatory proceedings. A fishway proceeding must conform to the following requirements.

A. A fishway proceeding must be an adjudicatory proceeding under Title 5, chapter 375, subchapter 4, but a hearing is not required unless requested in accordance with paragraph B. Notice of the proceeding must be given in accordance with Title 5, section 9052 and the following requirements:

- (1) Personal notice must be given to the dam owner, lessee or other person in control of the dam or artificial obstruction, informing that person that a proceeding has been undertaken and informing that person of that person's right to request a hearing; and
- (2) Notice to the public, in newspapers of general circulation in the areas affected, must be given notifying the public of the initiation of the proceedings and of the public's opportunity to request a hearing. [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

B. If any interested person requests a public hearing, the commissioner and the Commissioner of Marine Resources shall, within 30 days, either notify the petitioners in writing of the commissioners' denial, stating the reasons for the denial, or schedule a public hearing. The commissioners shall hold a public hearing whenever:

- (1) The commissioners are petitioned by 50 or more residents of the State; or
- (2) The owner, lessee or other person in control of the dam or artificial obstruction requests a hearing. [2011, c. 612, §1 (AMD) .]

C. The commissioner and the Commissioner of Marine Resources shall accept testimony from the owner, lessee or other person in control of the dam or artificial obstruction on alternate fishway designs to those proposed by the commissioners for that dam or artificial obstruction. [2011, c. 612, §1 (AMD).]

[2011, c. 612, §1 (AMD).]

6. Decision. In the event that the commissioner and the Commissioner of Marine Resources decide that a fishway should be constructed, repaired, altered or maintained pursuant to this section, the commissioners shall issue final orders with specific plans and descriptions of the fishway construction, alteration, repair or maintenance requirements, the conditions of the use of the fishway and the time and manner required for fishway operation. The commissioners may issue a decision requiring the owners, lessees or other persons in control of the dam or obstruction to construct, repair, alter or maintain a fishway. Such a decision must be supported by a finding based on evidence submitted to the commissioners that either of the following conditions exist:

A. One or more species of anadromous or migratory fish can be restored in substantial numbers to the watershed by construction, alteration, repair or maintenance of a fishway and habitat anywhere in the watershed above the dam or obstruction is sufficient and suitable to support a substantial commercial or recreational fishery for one or more species of anadromous or migratory fish; or [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

B. The construction, alteration, repair or maintenance of a fishway is necessary to protect or enhance rare, threatened or endangered fish species. [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

In the event that the commissioners decide that a fishway should not be constructed, the commissioners shall specify in that decision a period not to exceed 5 years subsequent to that decision during which a fishway may not be required to be constructed.

[2011, c. 612, §1 (AMD).]

7. Compliance. The owner, lessee or other person in control of a dam or other artificial obstruction is jointly and severally liable for the costs of fishway design, construction, repair, alteration or maintenance, and for full compliance with a decision issued pursuant to subsection 6.

A. If the owner, lessee or other person in control of a dam or other artificial obstruction refuses to comply or does not fully comply with the decision issued pursuant to subsection 6, the commissioner and the Commissioner of Marine Resources shall initiate a civil action to enjoin the owner, lessee or person in control of the dam to comply fully with the commissioners' order or to restrain the violation of an order. In the proceeding, the court may not review the legality of the commissioners' order, except when the owner, lessee or person in control of the dam or artificial obstruction has brought a timely petition for judicial review pursuant to Title 5, chapter 375, subchapter 7. [2011, c. 612, §1 (AMD).]

B. The court may render judgment against and order the sale of the dam or other artificial obstruction, the land on which it stands and a right-of-way to the dam or artificial obstruction, in order to secure the costs of fishway construction, repair, alteration or maintenance, the costs of the court-ordered sale and the costs incurred by the department for fishway design. The purchaser of the dam or other obstruction is subject to the decision issued pursuant to subsection 6. [2011, c. 612, §1 (AMD).]

[2011, c. 612, §1 (AMD).]

8. Privileged entry. The commissioner and the Commissioner of Marine Resources, the commissioners' agents or subcontractors may enter upon any private land in order to examine, at least annually, fishways in dams or other artificial obstructions and dams as provided in subsection 2. The commissioners shall notify

the landowner, lessee or other person in control of the dam when the examination will take place and the time required to complete the examination. The commissioners shall make every effort to preserve private land and shall restore surrounding lands to the grade and condition existing prior to entry, if economically feasible.

[2011, c. 612, §1 (AMD) .]

9. Certain lakes, rivers and streams; fishways prohibited. Notwithstanding any other provision of law to the contrary, the owners, lessors or other persons in control of a dam on the outlet of Sebec Lake in the Town of Sebec, of Schoodic Lake in Lake View Plantation or of Seboeis Lake or a dam on the Sebec River in the Town of Milo may not construct or authorize the construction of a fishway or fish bypass structure that would allow the upstream passage of an invasive fish species known to be present downstream in the Piscataquis River or Penobscot River drainage.

A. A person who violates this subsection commits a civil violation for which a fine of not less than \$500 or more than \$1,000 may be adjudged. [2011, c. 24, §2 (NEW).]

B. A person who violates this subsection after having been adjudicated as having committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E crime. [2011, c. 24, §2 (NEW).]

[2011, c. 612, §1 (AMD) .]

SECTION HISTORY

2003, c. 414, §A2 (NEW). 2003, c. 414, §D7 (AFF). 2003, c. 614, §9 (AFF). 2003, c. 655, §B304 (AMD). 2003, c. 655, §B422 (AFF). 2009, c. 561, §33 (AMD). 2011, c. 24, §§1, 2 (AMD). 2011, c. 612, §1 (AMD).

§12761. CONSTRUCTION OF NEW DAMS OR OTHER ARTIFICIAL OBSTRUCTIONS

1. Notice required. Prior to construction or prior to authorizing construction of a new dam or other obstruction in the inland waters, the owner, lessee or other person in control of the dam or other artificial obstruction shall provide written notice to the commissioner and the Commissioner of Marine Resources supplying information on construction plans, proposed location and date of construction of the dam or other artificial obstruction.

[2011, c. 612, §2 (AMD) .]

2. Initiation of fishway proceedings. Within 30 days of receipt of the construction notice pursuant to subsection 1, the commissioner and the Commissioner of Marine Resources shall review the plans in order to determine whether fishway construction or alteration of proposed fishway construction plans may be required pursuant to the criteria set forth in section 12760, subsection 4. If the commissioners determine that the construction or alteration may be necessary, the commissioners shall initiate fishway proceedings and follow the procedures prescribed in section 12760.

[2011, c. 612, §2 (AMD) .]

3. Unlawful building of dam. A person may not build any dam or other obstruction in any of the rivers, streams or brooks of this State without first filing written notice with the commissioner and the Commissioner of Marine Resources pursuant to subsection 1.

A. A person who violates this subsection commits a civil violation for which a fine of not less than \$100 nor more than \$500 may be adjudged. [2003, c. 655, Pt. B, §305 (NEW); 2003, c. 655, Pt. B, §422 (AFF).]

B. A person who violates this subsection after having been adjudicated as having committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E crime. [2003, c. 655, Pt. B, §305 (NEW); 2003, c. 655, Pt. B, §422 (AFF).]

[2011, c. 612, §2 (AMD) .]

SECTION HISTORY

2003, c. 414, §A2 (NEW). 2003, c. 414, §D7 (AFF). 2003, c. 614, §9 (AFF). 2003, c. 655, §B305 (AMD). 2003, c. 655, §B422 (AFF). 2011, c. 612, §2 (AMD).

§12762. FISH KILLS; VIOLATIONS; FINES; RULES; DEFINITION

1. Prohibition. A person may not improperly operate a fishway required under this subchapter in a manner that results in a fish kill.

[2003, c. 655, Pt. B, §306 (NEW); 2003, c. 655, Pt. B, §422 (AFF) .]

2. Penalty. The following penalties apply to violations of this section.

A. A person who violates this section commits a civil violation for which a fine equivalent to the value of the fish killed but not more than \$10,000 for each day of that violation may be adjudged. [2003, c. 655, Pt. B, §306 (NEW); 2003, c. 655, Pt. B, §422 (AFF).]

B. A person who violates this section after having been adjudicated as having committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E crime. [2003, c. 655, Pt. B, §306 (NEW); 2003, c. 655, Pt. B, §422 (AFF).]

[2003, c. 655, Pt. B, §306 (NEW); 2003, c. 655, Pt. B, §422 (AFF) .]

3. Rules; definition. The department and the Department of Marine Resources shall jointly make rules defining "fish kill."

[2003, c. 655, Pt. B, §306 (NEW); 2003, c. 655, Pt. B, §422 (AFF) .]

SECTION HISTORY

2003, c. 414, §A2 (NEW). 2003, c. 414, §D7 (AFF). 2003, c. 614, §9 (AFF). 2003, c. 655, §B422 (AFF). 2003, c. 655, §B306 (RPR).

§12763. USE OR POSSESSION OF GILL NET; PENOBSCOT NATION RESEARCH; DEPARTMENT PERSONNEL

1. Prohibition.

[2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §422 (AFF); 2003, c. 655, Pt. B, §307 (RP) .]

2. Penobscot Nation research. Under the direction of its director, the staff of the Department of Natural Resources of the Penobscot Nation may use gill nets for the purpose of scientific fisheries research and management on any waters within, flowing through or adjacent to Penobscot Indian territory as defined in Title 30, section 6205, subsection 2.

A. The authority granted under this subsection is subject to the following constraints.

(1) Both ends of the gill net must be marked with buoys that are clearly visible from a distance of 300 feet and that identify the Department of Natural Resources of the Penobscot Nation as the owner of the net.

(2) The results of each netting must be forwarded on a weekly basis to the office of the commissioner where the results must be available for public inspection. [2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §307 (AMD); 2003, c. 655, Pt. B, §422 (AFF).]

B. The following penalties apply to violations of paragraph A.

(1) A person who violates paragraph A commits a civil violation for which a fine of not less than \$100 nor more than \$500 may be adjudged.

(2) A person who violates paragraph A after having been adjudicated as having committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E crime. [2003, c. 655, Pt. B, §307 (NEW); 2003, c. 655, Pt. B, §422 (AFF).]

[2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §307 (AMD); 2003, c. 655, Pt. B, §422 (AFF) .]

3. Use of gill nets by department personnel. Department personnel and persons under contract with the department may use gill nets pursuant to this subsection. When requested by another agency to undertake a gill netting project, the department must be reimbursed by that agency for all costs relating to the gill netting project.

A. Department personnel and persons under contract with the department may not use gill nets in inland waters unless:

(2) Both ends of the net are marked with buoys that are clearly visible from a distance of 300 feet and that identify the department; and

(3) The results of each netting are forwarded on a weekly basis to the office of the commissioner. The records of the results must be available for public inspection at the office of the commissioner.

A person under contract with the department may not use a gill net under this section unless the use is at the direction of and under the supervision of the commissioner or the commissioner's designee. [2011, c. 533, §6 (AMD).]

A-1. The following penalties apply to violations of paragraph A.

(1) A person who violates paragraph A commits a civil violation for which a fine of not less than \$100 nor more than \$500 may be adjudged.

(2) A person who violates paragraph A after having been adjudicated as having committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E crime. [2003, c. 655, Pt. B, §307 (NEW); 2003, c. 655, Pt. B, §422 (AFF).]

B. [2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §422 (AFF); 2003, c. 655, Pt. B, §307 (RP).]

C. [2007, c. 651, §13 (RP).]

[2011, c. 533, §6 (AMD) .]

4. Permits allowing use of gill nets by federal agencies or other state agencies. The department may authorize the use of gill nets by federal agencies or other state agencies for purposes of scientific research or public safety projects. Any authorization by the department for a federal agency or another state agency to utilize gill nets must be given through written permit.

A. The authority granted to the department under this subsection is subject to the following constraints.

(2) Both ends of the gill net must be marked with buoys that are clearly visible from a distance of 300 feet and that identify the state or federal agency responsible for setting the net.

(3) The results of each netting must be forwarded on a weekly basis to the department, and the records of the results must be available for public inspection at the department. [2005, c. 477, §22 (AMD).]

B. The following penalties apply to violations of paragraph A.

(1) A person who violates paragraph A commits a civil violation for which a fine of not less than \$100 nor more than \$500 may be adjudged.

(2) A person who violates paragraph A after having been adjudicated as having committed 3 or more civil violations under this Part within the previous 5-year period commits a Class E crime. [2003, c. 655, Pt. B, §307 (NEW); 2003, c. 655, Pt. B, §422 (AFF).]

[2005, c. 477, §22 (AMD).]

SECTION HISTORY

2003, c. 414, §A2 (NEW). 2003, c. 414, §D7 (AFF). 2003, c. 614, §9 (AFF). 2003, c. 655, §B307 (AMD). 2003, c. 655, §B422 (AFF). 2005, c. 477, §22 (AMD). 2007, c. 651, §13 (AMD). 2011, c. 533, §6 (AMD).

Subchapter 3: ENDANGERED SPECIES; MANAGEMENT AND RESEARCH HEADING: PL 2003, C. 414, PT. A, §2 (NEW); PT. D, §7 (AFF); C. 614, §9 (AFF)

§12801. DECLARATION OF PURPOSE

The Legislature finds that various species of fish or wildlife have been and are in danger of being rendered extinct within the State of Maine, and that these species are of esthetic, ecological, educational, historical, recreational and scientific value to the people of the State. The Legislature, therefore, declares that it is the policy of the State to conserve, by according such protection as is necessary to maintain and enhance their numbers, all species of fish or wildlife found in the State, as well as the ecosystems upon which they depend. [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

This subchapter and chapter 631 are established to carry out the purposes of this section. [2003, c. 573, §5 (NEW); 2003, c. 573, §8 (AFF); 2003, c. 655, Pt. C, §§3, 6 (AFF).]

SECTION HISTORY

2003, c. 414, §A2 (NEW). 2003, c. 414, §D7 (AFF). 2003, c. 573, §5 (AMD). 2003, c. 573, §8 (AFF). 2003, c. 614, §9 (AFF). 2003, c. 655, §§3,6 (AFF).

§12802. COMMISSIONER'S AUTHORITY, INVESTIGATIONS AND PROGRAMS

1. Investigations. The commissioner may conduct investigations in order to develop information relating to population size, distribution, habitat needs, limiting factors and other biological and ecological data relating to the status and requirements for survival of any species of fish or wildlife occurring in the State, whether endangered or not.

[2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §308 (AMD); 2003, c. 655, Pt. B, §422 (AFF).]

2. Programs. The commissioner may develop programs to enhance or maintain the populations described in subsection 1.

[2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

SECTION HISTORY

2003, c. 414, §A2 (NEW). 2003, c. 414, §D7 (AFF). 2003, c. 614, §9 (AFF). 2003, c. 655, §B308 (AMD). 2003, c. 655, §B422 (AFF).

§12803. DESIGNATION OF ENDANGERED SPECIES

1. Standards. The commissioner shall recommend a species to be listed as endangered or threatened whenever the commissioner finds one of the following to exist:

- A. The present or threatened destruction, modification or curtailment of its habitat or range; [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]
- B. Overutilization for commercial, sporting, scientific, educational or other purposes; [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]
- C. Disease or predation; [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]
- D. Inadequacy of existing regulatory mechanisms; or [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]
- E. Other natural or manmade factors affecting its continued existence within the State. [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

[2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

2. Commissioner's duties. In recommending a species to be listed as endangered or threatened, the commissioner shall:

- A. Make use of the best scientific, commercial and other data available; [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]
- B. Consult, as appropriate, with federal agencies, other interested state agencies, other states having a common interest in the species and interested persons and organizations; and [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]
- C. Maintain a list of all species that the Legislature has designated to be endangered or threatened, naming each species by both its scientific and common name, if any, and specifying over what portion of its range each species so designated is endangered or threatened. [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

[2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

3. Legislative authority. The Legislature, as sole authority, shall designate a species as a state endangered or state threatened species. The list of state endangered or state threatened species by common name, scientific name and status is as follows:

- A. Least tern, *Sterna antillarum*, endangered; [2007, c. 166, §1 (AMD).]
- B. Golden eagle, *Aquila chrysaetos*, endangered; [2003, c. 573, §6 (NEW); 2003, c. 573, §8 (AFF); 2003, c. 655, Pt. C, §§3, 6 (AFF).]
- C. Piping plover, *Charadrius melodus*, endangered; [2003, c. 573, §6 (NEW); 2003, c. 573, §8 (AFF); 2003, c. 655, Pt. C, §§3, 6 (AFF).]
- D. Sedge wren, *Cistothorus platensis*, endangered; [2007, c. 166, §1 (AMD).]

- E. Grasshopper sparrow, *Ammodramus savannarum*, endangered; [2003, c. 573, §6 (NEW); 2003, c. 573, §8 (AFF); 2003, c. 655, Pt. C, §§3, 6 (AFF).]
- F. Box turtle, *Terrapene carolina*, endangered; [2003, c. 573, §6 (NEW); 2003, c. 573, §8 (AFF); 2003, c. 655, Pt. C, §§3, 6 (AFF).]
- G. Black racer, *Coluber constrictor*, endangered; [2003, c. 573, §6 (NEW); 2003, c. 573, §8 (AFF); 2003, c. 655, Pt. C, §§3, 6 (AFF).]
- H. Roseate tern, *Sterna dougallii*, endangered; [2003, c. 573, §6 (NEW); 2003, c. 573, §8 (AFF); 2003, c. 655, Pt. C, §§3, 6 (AFF).]
- I. Northern bog lemming, *Synaptomys borealis*, threatened; [2003, c. 573, §6 (NEW); 2003, c. 573, §8 (AFF); 2003, c. 655, Pt. C, §§3, 6 (AFF).]
- J. Blanding's turtle, *Emydoidea blandingii*, endangered; [2003, c. 573, §6 (NEW); 2003, c. 573, §8 (AFF); 2003, c. 655, Pt. C, §§3, 6 (AFF).]
- K. Black tern, *Chlidonias niger*, endangered; [2003, c. 573, §6 (NEW); 2003, c. 573, §8 (AFF); 2003, c. 655, Pt. C, §§3, 6 (AFF).]
- L. American pipit, *Anthus rubescens* (breeding population only), endangered; [2007, c. 166, §1 (AMD).]
- M. Peregrine falcon, *Falco peregrinus* (breeding population only), endangered; [2007, c. 166, §1 (AMD).]
- N. Roaring Brook mayfly, *Epeorus frisoni*, endangered; [2007, c. 166, §1 (AMD).]
- O. Ringed boghaunter, *Williamsonia lintneri*, threatened; [2007, c. 166, §1 (AMD).]
- P. Clayton's copper, *Lycaena dorcas claytoni*, endangered; [2003, c. 573, §6 (NEW); 2003, c. 573, §8 (AFF); 2003, c. 655, Pt. C, §§3, 6 (AFF).]
- Q. Edwards' hairstreak, *Satyrium edwardsii*, endangered; [2003, c. 573, §6 (NEW); 2003, c. 573, §8 (AFF); 2003, c. 655, Pt. C, §§3, 6 (AFF).]
- R. Hessel's hairstreak, *Callophrys hesseli*, endangered; [2007, c. 166, §1 (AMD).]
- S. Katahdin arctic, *Oenis polixenes katahdin*, endangered; [2003, c. 573, §6 (NEW); 2003, c. 573, §8 (AFF); 2003, c. 655, Pt. C, §§3, 6 (AFF).]
- T. Spotted turtle, *Clemmys guttata*, threatened; [2003, c. 573, §6 (NEW); 2003, c. 573, §8 (AFF); 2003, c. 655, Pt. C, §§3, 6 (AFF).]
- U. [2009, c. 60, §1 (RP).]
- V. Razorbill, *Alca torda*, threatened; [2003, c. 573, §6 (NEW); 2003, c. 573, §8 (AFF); 2003, c. 655, Pt. C, §§3, 6 (AFF).]
- W. Atlantic puffin, *Fratercula arctica*, threatened; [2003, c. 573, §6 (NEW); 2003, c. 573, §8 (AFF); 2003, c. 655, Pt. C, §§3, 6 (AFF).]
- X. Harlequin duck, *Histrionicus histrionicus*, threatened; [2003, c. 573, §6 (NEW); 2003, c. 573, §8 (AFF); 2003, c. 655, Pt. C, §§3, 6 (AFF).]
- Y. Arctic tern, *Sterna paradisaea*, threatened; [2003, c. 573, §6 (NEW); 2003, c. 573, §8 (AFF); 2003, c. 655, Pt. C, §§3, 6 (AFF).]
- Z. Upland sandpiper, *Bartramia longicauda*, threatened; [2003, c. 573, §6 (NEW); 2003, c. 573, §8 (AFF); 2003, c. 655, Pt. C, §§3, 6 (AFF).]
- AA. Swamp darter, *Etheostoma fusiforme*, threatened; [2003, c. 573, §6 (NEW); 2003, c. 573, §8 (AFF); 2003, c. 655, Pt. C, §§3, 6 (AFF).]
- BB. Tidewater mucket, *Leptodea ochracea*, threatened; [2003, c. 573, §6 (NEW); 2003, c. 573, §8 (AFF); 2003, c. 655, Pt. C, §§3, 6 (AFF).]

- CC. Yellow lampmussel, *Lampsilis cariosa*, threatened; [2003, c. 573, §6 (NEW); 2003, c. 573, §8 (AFF); 2003, c. 655, Pt. C, §§3, 6 (AFF).]
- DD. Tomah mayfly, *Siphonisca aerodromia*, threatened; [2003, c. 573, §6 (NEW); 2003, c. 573, §8 (AFF); 2003, c. 655, Pt. C, §§3, 6 (AFF).]
- EE. [2007, c. 166, §1 (RP).]
- FF. Twilight moth, *Lycia rachelae*, threatened; [2007, c. 166, §1 (AMD).]
- GG. Pine barrens zanclognatha, *Zanclognatha martha*, threatened; [2007, c. 166, §1 (AMD).]
- HH. Redfin pickerel, *Esox americanus americanus*, endangered; [2007, c. 166, §1 (NEW).]
- II. Juniper hairstreak, *Callophrys gryneus*, endangered; [2007, c. 166, §1 (NEW).]
- JJ. Rapids clubtail, *Gomphus quadricolor*, endangered; [2007, c. 166, §1 (NEW).]
- KK. New England cottontail, *Sylvilagus transitionalis*, endangered; [2007, c. 166, §1 (NEW).]
- LL. Black-crowned night heron, *Nycticorax nycticorax*, threatened; [2007, c. 166, §1 (NEW).]
- MM. Common moorhen, *Gallinula chloropus*, threatened; [2007, c. 166, §1 (NEW).]
- NN. Great cormorant, *Phalacrocorax carbo* (breeding population only), threatened; [2007, c. 166, §1 (NEW).]
- OO. Short-eared owl, *Asio flammeus* (breeding population only), threatened; [2007, c. 166, §1 (NEW).]
- PP. Purple lesser fritillary, *Boloria chariclea grandis*, threatened; [2007, c. 166, §1 (NEW).]
- QQ. Sleepy duskywing, *Erynnis brizo*, threatened; [2007, c. 166, §1 (NEW).]
- RR. Boreal snaketail, *Ophiogomphus colubrinus*, threatened; [2007, c. 166, §1 (NEW).]
- SS. Brook floater, *Alasmodonta varicosa*, threatened; [2007, c. 166, §1 (NEW).]
- TT. Barrow's goldeneye, *Bucephala islandica*, threatened; and [2007, c. 166, §1 (NEW).]
- UU. Least bittern, *Ixobrychus exilis*, endangered. [2007, c. 166, §1 (NEW).]

[2009, c. 60, §1 (AMD) .]

4. Process for recommendation; notice and hearings. Prior to recommending an addition, deletion or other change to the endangered and threatened species listed in subsection 3, the commissioner shall provide for public notice and public hearings on that proposed recommendation in accordance with the provisions of Title 5, chapter 375, subchapter 2.

[2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

5. Designation by Legislature. The Legislature may not amend the list of endangered or threatened species in subsection 3 except upon the recommendation of the commissioner.

[2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

SECTION HISTORY

2003, c. 414, §A2 (NEW). 2003, c. 414, §D7 (AFF). 2003, c. 573, §6 (AMD). 2003, c. 573, §8 (AFF). 2003, c. 614, §9 (AFF). 2003, c. 655, §§C3,6 (AFF). 2007, c. 166, §1 (AMD). 2009, c. 60, §1 (AMD).

§12804. CONSERVATION OF ENDANGERED SPECIES

1. Conservation of nongame and endangered species. The commissioner may establish such programs as are necessary to bring any endangered or threatened species to the point where it is no longer endangered or threatened, including:

- A. Acquisition of land or aquatic habitat or interests in land or aquatic habitat; [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]
- B. Propagation; [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]
- C. Live trapping; [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]
- D. Transplantation. Prior to the transplantation, introduction or reintroduction of an endangered or threatened species in the State, the commissioner shall, in conjunction with the Department of Marine Resources, when appropriate, develop a recovery plan for that species, conduct a public hearing on that recovery plan pursuant to Title 5, Part 18 and submit that plan to the joint standing committee of the Legislature having jurisdiction over inland fisheries and wildlife matters. The introduction or reintroduction of that species must be conducted in accordance with the recovery plan developed under this paragraph and may not begin sooner than 90 days after all conditions of this paragraph have been met; and [2009, c. 561, §34 (AMD).]
- E. In the extraordinary case where population pressures within a given group ecosystem can not be otherwise relieved, regulated taking. [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

[2009, c. 561, §34 (AMD) .]

2. Habitat. For species designated as endangered or threatened under this subchapter the commissioner may by rule identify areas currently or historically providing physical or biological features essential to the conservation of the species and that may require special management considerations. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §309 (AMD); 2003, c. 655, Pt. B, §422 (AFF) .]

3. Protection guidelines. The commissioner may by rule develop guidelines for the protection of species designated as endangered or threatened under this subchapter. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §309 (AMD); 2003, c. 655, Pt. B, §422 (AFF) .]

4. Annual report.

[2007, c. 651, §14 (RP) .]

SECTION HISTORY

2003, c. 414, §A2 (NEW). 2003, c. 414, §D7 (AFF). 2003, c. 573, §7 (AMD). 2003, c. 614, §9 (AFF). 2003, c. 655, §B309 (AMD). 2003, c. 655, §B422 (AFF). 2007, c. 651, §14 (AMD). 2009, c. 561, §34 (AMD).

§12805. COOPERATIVE AGREEMENTS

The commissioner may enter into agreements with federal agencies, other states, political subdivisions of this State or private persons for the establishment and maintenance of programs for the conservation of endangered or threatened species and may receive all federal funds allocated for obligations to the State pursuant to these agreements. [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

SECTION HISTORY

2003, c. 414, §A2 (NEW). 2003, c. 414, §D7 (AFF). 2003, c. 614, §9 (AFF).

§12806. STATE AND LOCAL COOPERATION

1. Review. A state agency or municipal government may not permit, license, fund or carry out projects that will:

A. Significantly alter the habitat identified under section 12804, subsection 2 of any species designated as threatened or endangered under this subchapter; or [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

B. Violate protection guidelines set forth in section 12804, subsection 3. [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

The commissioner shall make information under section 12804 available to all other state agencies and municipal governments for the purposes of review.

[2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

2. Variance. Notwithstanding subsection 1, state agencies and municipal governments may grant a variance from this section provided that:

A. The commissioner certifies that the proposed action would not pose a significant risk to any population of endangered or threatened species within the State; and [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

B. A public hearing is held on the proposed action. [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

[2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

3. Pending applications. Notwithstanding Title 1, section 302, applications pending at the time of adoption of habitats and guidelines under section 12804, subsections 2 and 3 are governed by this section.

[2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

SECTION HISTORY

2003, c. 414, §A2 (NEW). 2003, c. 414, §D7 (AFF). 2003, c. 614, §9 (AFF).

§12807. INTRODUCTION OF WOLVES TO STATE; APPROVAL

A person may not release a wolf in the State for the purpose of reintroducing that species into the State without the prior approval of both Houses of the Legislature and the commissioner. [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

A person who violates this section commits a Class E crime. [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

SECTION HISTORY

2003, c. 414, §A2 (NEW). 2003, c. 414, §D7 (AFF). 2003, c. 614, §9 (AFF).

§12808. MISUSE OF ENDANGERED OR THREATENED SPECIES

For the purposes of this section, "to take," "take" and "taking" mean the act or omission that results in the death of any endangered or threatened species. [2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §310 (AMD); 2003, c. 655, Pt. B, §422 (AFF).]

1. Prohibited acts regarding endangered or threatened species; negligence. Except as provided in subsections 2 and 3, a person may not negligently:

A. Import into the State or export out of the State any endangered or threatened species. A person who violates this paragraph commits a Class E crime; [2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §422 (AFF); 2003, c. 655, Pt. B, §311 (RPR).]

B. Hunt, take, trap or possess any endangered or threatened species within the State. A person who violates this paragraph commits a Class E crime; [2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §422 (AFF); 2003, c. 655, Pt. B, §311 (RPR).]

C. Possess, process, sell, offer for sale, deliver, carry, transport or ship, by any means whatsoever, any endangered or threatened species or any part of an endangered or threatened species. A person who violates this paragraph commits a Class E crime; or [2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §422 (AFF); 2003, c. 655, Pt. B, §311 (RPR).]

D. Feed, set bait for or harass any endangered or threatened species. A law enforcement officer, as defined in Title 25, section 2801-A, subsection 5, must issue a warning to a person who violates this paragraph for the first time. A person who violates this paragraph after having previously been given a warning under this paragraph commits a Class E crime. [2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §422 (AFF); 2003, c. 655, Pt. B, §311 (RPR).]

[2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §422 (AFF); 2003, c. 655, Pt. B, §311 (RPR).]

1-A. Prohibited acts regarding endangered or threatened species; intentional. Except as provided in subsections 2 and 3, a person may not intentionally:

A. Import into the State or export out of the State any endangered or threatened species. A person who violates this paragraph commits a Class D crime; [2003, c. 655, Pt. B, §312 (NEW); 2003, c. 655, Pt. B, §422 (AFF).]

B. Hunt, take, trap or possess any endangered or threatened species within the State. A person who violates this paragraph commits a Class D crime; [2003, c. 655, Pt. B, §312 (NEW); 2003, c. 655, Pt. B, §422 (AFF).]

C. Possess, process, sell, offer for sale, deliver, carry, transport or ship, by any means whatsoever, any endangered or threatened species or any part of an endangered or threatened species. A person who violates this paragraph commits a Class D crime; or [2005, c. 477, §23 (AMD).]

D. Feed, set bait for or harass any endangered or threatened species. A law enforcement officer, as defined in Title 25, section 2801-A, subsection 5, must issue a warning to a person who violates this paragraph for the first time. A person who violates this paragraph after having previously been given a warning under this paragraph commits a Class D crime. [2003, c. 655, Pt. B, §312 (NEW); 2003, c. 655, Pt. B, §422 (AFF).]

[2005, c. 477, §23 (AMD) .]

2. Exceptions for certain purposes. Notwithstanding subsections 1 and 1-A or section 10650 as it applies to rules adopted in accordance with this subchapter, the commissioner may:

A. Under such terms and conditions as the commissioner may prescribe, permit any act prohibited by this section or by rule for educational or scientific purposes or to enhance the propagation or survival of an endangered or threatened species; and [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

B. Under such terms and conditions as the commissioner may prescribe, permit any endangered or threatened species that enters the State and is being transported to a point outside the State to be so entered and transported without restriction in accordance with the terms of any federal or state permit. [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

[2003, c. 614, §9 (AFF); 2003, c. 655, Pt. B, §313 (AMD); 2003, c. 655, Pt. B, §422 (AFF) .]

3. Exceptions; incidental take plan. Notwithstanding subsection 1, the commissioner may:

A. Permit the taking of any endangered species or threatened species if:

- (1) Such taking is incidental to, and not the purpose of, carrying out an otherwise lawful activity;
- (2) The taking will not impair the recovery of any endangered species or threatened species; and
- (3) The person develops and implements an incidental take plan approved by the commissioner to take an endangered species or threatened species pursuant to paragraph B; and [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

B. Allow a plan that minimizes the incidental taking of an endangered species or threatened species that specifies the following:

- (1) A description of the specific activities sought to be authorized by the incidental take permit and an analysis of potential alternatives;
- (2) The individual and cumulative effects that may reasonably be anticipated to result from the proposed actions covered by the plan;
- (3) The recovery measures the applicant will implement to prevent, minimize and mitigate the individual and cumulative effects and any provisions that are necessary to prevent, minimize and mitigate circumstances that are likely to impair the recovery of any endangered or threatened species covered by the plan;
- (4) The procedures for monitoring the effectiveness of the recovery measures in the plan;
- (5) The anticipated costs of implementing the plan and the availability of necessary funding for the applicant to implement the plan; and
- (6) Other modifications to the plan or other additional measures, if any, that the department may require and such other matters as the department determines to be necessary for the recovery of species consistent with this section. [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF).]

The department shall seek input from knowledgeable individuals or groups on each incidental take plan for endangered or threatened species.

If any person fails to abide by the terms of any permit authorizing the incidental taking of an endangered or threatened species, the permit must be immediately suspended or revoked.

[2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

SECTION HISTORY

2003, c. 414, §A2 (NEW). 2003, c. 414, §D7 (AFF). 2003, c. 614, §9 (AFF). 2003, c. 655, §§B310-313 (AMD). 2003, c. 655, §B422 (AFF). 2005, c. 477, §23 (AMD).

§12809. JUDICIAL ENFORCEMENT

1. General. In the event of a violation of this subchapter, any rule adopted pursuant to this subchapter or any license or permit granted under this subchapter, the Attorney General may institute injunctive proceedings to enjoin any further violation, a civil or criminal action, or any appropriate combination of those proceedings without recourse to any other provision of law administered by the department.

[2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

2. Restoration. The court may order restoration of any area affected by any activity found to be in violation of this subchapter, any rule adopted pursuant to this subchapter or any license or permit granted under this subchapter, to its condition prior to the violation or as near to that condition as possible. When the court finds that the violation was willful, the court shall order restoration under this subchapter, unless the restoration would result in:

A. A threat to public health and safety; [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

B. Environmental damage; or [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

C. A substantial injustice. [2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

[2003, c. 414, Pt. A, §2 (NEW); 2003, c. 614, §9 (AFF) .]

SECTION HISTORY

2003, c. 414, §A2 (NEW). 2003, c. 414, §D7 (AFF). 2003, c. 614, §9 (AFF) .

§12810. DELISTED SPECIES

1. Definition. For purposes of this section, "delisted species" means a species that was listed as a state endangered or threatened species under section 12803 and after 2007 was removed from that list by the Legislature. The following is a delisted species:

A. Bald eagle, *Haliaeetus leucocephalus*. [2009, c. 60, §2 (NEW) .]

[2009, c. 60, §2 (NEW) .]

2. Prohibited acts regarding delisted species. Except as otherwise authorized by the commissioner pursuant to this Part, a person may not intentionally:

A. Import into the State or export out of the State a delisted species. A person who violates this paragraph commits a Class D crime; [2009, c. 60, §2 (NEW) .]

B. Hunt, trap or possess a delisted species within the State. A person who violates this paragraph commits a Class D crime; [2009, c. 60, §2 (NEW) .]

C. Process, sell, offer for sale, deliver, carry, transport or ship, by any means whatsoever, a delisted species or any part of a delisted species. A person who violates this paragraph commits a Class D crime; or [2009, c. 60, §2 (NEW) .]

D. Feed, set bait for or harass a delisted species. A law enforcement officer, as defined in Title 25, section 2801-A, subsection 5, must issue a warning to a person who violates this paragraph for the first time. A person who violates this paragraph after having previously been given a warning under this paragraph commits a Class D crime. [2009, c. 60, §2 (NEW) .]

[2009, c. 60, §2 (NEW) .]

SECTION HISTORY

2009, c. 60, §2 (NEW) .

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